The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mrs. VUCANOVIĆ].

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC, March 27, 1996.

I hereby designate the Honorable BARBARA F. VUCANOVIĆ to act as Speaker pro tempore on this day.

NEWT GINGRICH, Speaker of the House of Representatives.

PRAYER

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

Where there is no hope, our hearts are heavy; where there is no love, then evil thrives; where there is no faith, doubt increases; and where there is no vision, the people perish. Grant to us and to every person, O gracious God, the wisdom to discern and to accept Your gifts of faith and hope and love and, filled by Your spirit, may we be Your faithful people and You our God for ever and ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the House for ever and ever. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. WALSH] come forward and lead the House in the Pledge of Allegiance.

Mr. WALSH 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.

SUNDARY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

RESIGNATION OF MEMBER AND APPOINTMENT OF MEMBER TO UNITED STATES-CANADA INTER-PARLIAMENTARY GROUP

The SPEAKER pro tempore laid before the House the following resignation as leader of the House delegation to the United States-Canada interparliamentary group for the year 1996:

WASHINGTON, DC, March 27, 1996.

Hon. NEWT GINGRICH, Office of the Speaker, U.S. House of Representatives, Washington, DC.

Dear Mr. Speaker:

Pursuant to my request, I am hereby resigning as the leader of the House delegation to the United States-Canada Interparliamentary Group for the year 1996.

Sincerely,

DON MANZULLO, Member of Congress.

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of 22 U.S.C. 276d, the Chair announces the Speaker’s appointment of the following Member of the House to the United States delegation of the Canada-United States Interparliamentary group: Mr. HOUGHTON, New York, chairman.

There was no objection.

APPOINTMENT AS MEMBER TO LIBRARY OF CONGRESS TRUST FUND BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 1 of 2 U.S.C. 154, as amended, by section 1 of Public Law 102-246, the Chair announces the Speaker’s appointment to the Library of Congress Trust Fund Board the following member on the part of the House:

Mrs. Marguerite S. Roll, Paradise Valley, AZ, to a 3-year term. There was no objection.

GO ORANGE

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

Mr. WALSH. Madam Speaker, I rise today to congratulate the Syracuse University Orangemen men’s basketball team who are on their way to the final four in the Meadowlands in East Rutherford, NJ, this weekend.

In central New York, we look forward to cheering them on in their third final four appearance in school history, the second under 20-year head coach Jim Boeheim—and the first since SU was denied the national championship by a single basket in 1987.

As I boast, I wish also to congratulate all the teams who have played in the National Collegiate Athletic Association’s tournament, especially the University of Massachusetts, Kentucky and Mississippi State. The other three schools in the final four are State schools. Syracuse is the only one that bears the name of a city. So there is indeed a special feeling in my hometown for this team. At this moment there is a huge pep rally occurring in front of city hall and lots of orange everywhere.

No team has come further than the SU Orangemen. Coach Boeheim has...
once again successfully inspired and challenged an extraordinary group of young men.

They have fought from the first whistle, having been unranked in the pre-season, to get here today, to play one more Wednesday to more games, we hope, an incredible season.

We in Syracuse know them to be a great group of student athletes who have made us all very proud. Win or lose, the Orangemen of 1995-96 will be remembered with fondness for their sportsmanship and their heart. They have given many central New Yorkers a warm feeling after a very long winter.

Congratulations to all, and go Orange.

PASS A CLEAN BILL TOMORROW
(Mrs. KENNELLY asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY. Madam Speaker, the Kennedy-Kassebaum bill has a simple premise: If you leave or lose your job, you should not lose your health insurance because of a preexisting health condition. As introduced in the House, the bill is only 65 pages long. Here is a copy of it.

However, the bill that will come to the House floor tomorrow is more than 220 pages long. Here is a copy of it. The bill adds 10 separate provisions to the health insurance portion of the bill.

Some of these additions are good ideas, but several are very controversial, such as tax breaks for medical savings accounts and exempting certain health plans from State insurance regulation. I am worried these additions could kill a bill that guarantees Americans the right to have portable health insurance.

Madam Speaker, Republicans in the Senate say they want a clean bill. Democrats in the House say they want a clean bill. And the President says he wants a clean bill. I hope the majority in the House will now join us in an effort to pass a bill without any special interest addons. Let us not load on so much baggage that we bring the whole plane down.

RAISING TAXES IS THE WRONG WAY TO GO
(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Madam Speaker, not so long ago, the President stood before us in this very Chamber and declared that "the era of big Government is over." His latest budget tells a different story, particularly with taxes. The President wants to raise taxes immediately and phase in a tax cut—that can be yanked if deficit targets are not met. In other words, the President wants a permanent tax increase and a temporary tax cut.

Madam Speaker, will liberal Democrats ever learn that smaller Government means less taxes? It is not enough to say you want to end big Government, you have to back it up with actions. If the President really wants to end the era of big Government, he needs to stop feeding the beasts. Raising taxes is simply the wrong way to go. We need to stop piling on and reduce the tax burden on the American people—only then will the era of big Government truly be over.

TRIBUTE TO SENATOR ED MUSKIE
(Mr. BALDacci asked and was given permission to address the House for 1 minute.)

Mr. BALDacci. Madam Speaker, I was deeply saddened to learn yesterday of the death of Senator Ed Muskie. As a new Member of Congress from Maine, I have been privileged to call on Ed Muskie for advice and wisdom.

Ed Muskie was a leader for Maine and a statesman for the Nation. He never lost sight of his roots, nor wavered from his principles.

The people of Maine and the Nation are indebted to Ed Muskie for his passionate work on a wide range of issues. His vision in developing environmental legislation, especially the Clean Air and Clean Water Acts, is a legacy which will be recognized and honored by generations to come.

We can all learn much from the life that Ed Muskie led. I will never forget the advice that he gave to me shortly before I took office. He said, "Be yourself, work hard, and tell the truth." Those simple principles guided his life, and are what I strive to live up to every day.

Senator Muskie's devotion to Maine and his dedication to improving the quality of life for all Americans will long be remembered and appreciated. I know that my colleagues join me in expressing our deepest sympathy to Ed Muskie's wife, Jane, and the rest of his family.

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

Mr. TRAFICANT. Madam Speaker, China just sold patrol boats armed with state-of-the-art cruise missiles to Iran. Let me start by saying China just sold cruise missiles to Iran.

Now, the last time I checked, Iran is still listed as a terrorist nation by America, and, No. 2, the leaders of Iran refer to Uncle Sam as "the Great Satan."

This is unbelievable. China continues to arm, aid, and abet Iran, America's No. 1 enemy, and after all of this, the Congress of the United States rewards China with most-favored-nation trade status. Beam me up, Madam Speaker.

Our policy with China not only kills American jobs, it destabilizes the world, threatens American security, and people around here are granting them most-favored-nation trade status. I suspect today that not only are there a lot more people in Washington, DC, smoking dope, they are inhaling every single day.

WHAT IS IN STORE FOR AMERICA?
(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, our Republican friends are at it again. Last year they spent the whole year trying to decimate Medicare and Medicaid and hurt our senior citizens, and, thankfully, at least for now, we were able to stop them.

This year what do they have in store for America? The largest education cuts in the history of the United States. They would deny our schoolchildren the ability to compete in this global economy.

Let us look at what the $3.3 billion in education cuts amount to. Sixty-five million schoolchildren will be affected, basic reading and math skills cut, safe and drug-free schools cut, vocational education cut, adult education cut, title I education cut, the summer youth and employment program eliminated.

Not only do the Republicans not want to teach our children, they do not want to give them summer jobs. I guess they think they are better off hanging out on street corners than earning a few dollars to help with their families.

This just shows once again the extreme, mean-spirited Republican agenda of sticking it to middle-class families.

Last year it was Medicare and Medicaid. Now it is education. What comes next?

OIL IMPORTS A THREAT TO U.S. NATIONAL SECURITY
(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. Madam Speaker, independent oil and gas producers are the mainstay of our domestic energy industry. In fact, independents produce about 64 percent of the natural gas in the country and about 39 percent of the crude oil.

But this great industry is struggling. Imports of both oil and natural gas are on the rise, and employment is declining. The United States now imports over half of our annual demand.

Our dependency on foreign oil costs about $60 billion annually and makes up a substantial part of our trade deficit.

Just over a year ago, President Clinton signed a report issued by the Department of Commerce saying that increasing oil imports are a threat to national security. But even as the President felt the pain of the oil and gas industry, he offered no plans to end that pain.
In a survey released by the Sustainable Energy Budget Coalition on January 16, it found that "three-quarters of the American voters believe we need to do something to reduce dependency on foreign oil."

Public servants must do more than talk. They must act to lower taxes, reduce regulation, and lower the burden of government on our oil and gas industry. As we approach the next century, we must, once again, make a domestic oil and gas industry a priority.

KENNEDY-KASSEBAUM HEALTH CARE REFORM EFFORT

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

Mr. PALLONE. Madam Speaker, health insurance reform is long overdue. As we know, fewer Americans are able to obtain health insurance now, and the cost of that health insurance keeps going up. So my colleague, the gentlewoman from New Jersey, Mrs. Roukema, had a very good idea, which is shared in the Senate by Senator Kassebaum and Senator Kennedy on a bipartisan basis. To put forth a bill in this House that would make it easier for people to take health insurance from one job to another. We call that portability. We also try to make it easier for people who have preexisting conditions or perhaps were disabled with some sort of health disorder, that they would be able to buy health insurance.

We are all supportive of this. The Democrats, over 170, have said that they support it, but the Republican leadership here is trying to load down this bill with all kinds of extraneous material in terms of the best example is medical savings accounts that will material in terms of the best example in the Senate by Senator Kassebaum and Senator Kennedy on a bipartisan basis, to put forth a bill in this House that would make it easier for people to take health insurance from one job to another. We call that portability. We also try to make it easier for people who have preexisting conditions or perhaps were disabled with some sort of health disorder, that they would be able to buy health insurance.

It is time now that we got together on a bipartisan basis and passed the Kennedy-Kassebaum-Roukema bill to make health insurance more affordable and make it possible for more people to obtain health insurance.

TIME TO STOP PLAYING POLITICS WITH OUR CHILDREN'S FUTURE

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

Mr. NADLER. Madam Speaker, the Republican major in '95's political gamesmanship knows no bounds—even when it comes to defauling on the most important obligation of this House, providing for our children's future.

Because of Republican intransigence on the fiscal year '96 budget, which is now almost half a year overdue, local schools have been severely injured, now knowing how much Federal aid they will receive, not knowing how many teachers they can hire, how many books they can buy, what kind of science programs they can run.

Not only do the Republicans think it is a good idea to slash education funds to pay for a tax cut for the wealthiest Americans, but the leadership responsibility is crippling local school boards' ability to spend whatever money we do send them.

Let's stop shooting dice with our children's futures. Let's fund the Government for the second half of the fiscal year and get ourselves out of supporting the President's proposal to increase funding for such crucial educational programs as title I for basic reading, writing, and math skills. Pell grants, safe and drug free schools, and the School to Work Program.

WHO IS FOR KIDS, AND WHO IS JUST KIDDING?

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

Mrs. SCHROEDER. Madam Speaker, the question of who is for kids and who is just kidding sounds very playful, but this is not a playful question to ponder.

This is really about the survival of this great Republic which we are so proud of, because we need to know which Members of this body are not for kids. If they are not for kids, they are going right at this Nation's future.

I went to public school, my husband went to public school, both of our children went to public school, my mother taught in public school. Public schools have been the foundation of the future of this Nation. I am appalled that the Republicans in this body have put the biggest cuts in education we have ever seen at a time when we all agree that our schools need more help, not less.

If Members think that our math scores are high enough so we can call back our funding to help math, if they think our basic reading skills are good enough so we can pull back on math, if Members think our classes are too small and we ought to make them bigger, and if they think it is a good idea to surrender on the drug war in the schools and not make them safe, then Members will lose their side of the aisle. I do not. I think it is time we all wake up and fight back.

PUT OUR CHILDREN FIRST AND VOTE TO FUND EDUCATION

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

Ms. DELAURURO. Madam Speaker, on Monday I visited schools and met with parents in my district. I visited a DARE program in Stratford, CT, where our first graders to keep kids off drugs. I attended an awards ceremony where young people were recognized for their work to keep their peers off drugs and alcohol.

That evening, I organized a parents summit where about 100 parents gathered to discuss the challenges that they face trying to raise good kids today.

Let me share the comments of one parent. She said: I feel like a boxer who is down and the count is 8. My head is down and I am dripping blood from every part of my body. The schools need to help teach the basics," she said. That is not what House Republicans are proposing. They want to cut basic math skills, basic reading skills.

The families that I met with do not believe that this Congress is on their side. This week we will have an opportunity to prove that we really want to help working families. Once again, I urge Speaker Gingrich and the Republican leadership to reverse course, stand with our parents and our kids, and vote to fund education. Let us put our children first.

IN SUPPORT OF THE WOMEN'S HEALTH EQUITY ACT

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON. Madam Speaker, I rise today in support of the Women's Health Equity Act and, in particular, in support of the osteoporosis provisions of the bill.

Most women find out that they have osteoporosis when it is too late, after a bone fracture or the spine has occurred. The real tragedy is that for many women the disease is preventable and treatable.

If they are not for kids, they are going right at this Nation's future.

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If Members think that our math scores are high enough so we can call back our funding to help math, if they think our basic reading skills are good enough so we can pull back on math, if Members think our classes are too small and we ought to make them bigger, and if they think it is a good idea to surrender on the drug war in the schools and not make them safe, then Members will lose their side of the aisle. I do not. I think it is time we all wake up and fight back.

CONGRESS, THE ADMINISTRATION, AND INDUSTRY MUST WORK TOGETHER TO PROVIDE STABILITY TO OUR DOMESTIC OIL AND GAS PRODUCTION

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

Mr. BREWSTER. Madam Speaker, domestic oil and gas production is critically important to our Nation's economy and national security. Just 5 years after fighting a war in Iraq, our Government has yet to take a single substantive step toward reforming restrictive regulations on our domestic energy industry.
Since the Gulf war, our dependence on Middle Eastern oil has grown to the point where more than half of our country's oil and gas consumption is from imports. We cannot allow this situation to continue.

Working with Congress, the administration, and industry must pass and enact legislative and regulatory initiatives which will provide stability to this extraordinarily important segment of our Nation's economy.

As you know, U.S. relations with our Middle East oil trading partners historically have been unstable. However, the United States does have at least one reliable trading partner. Petroleos de Venezuela, the owner of Citgo, has been supplying oil and product to the United States for 70 years—through World War II and the Arab oil embargo.

While maximizing our domestic resources, we should also encourage trading with reliable neighbors and allies such as Venezuela.

The Women's Health Equity Act of 1996

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

Ms. Slaughter. Madam Speaker, I rise today as Chair of the Women's Health Task Force of the Congressional Caucus on Women's Issues. On behalf of the caucus, I have the honor of introducing the Women's Health Equity Act of 1996.

A momentous legislative initiative, the Women's Health Equity Act is an omnibus bill comprised of 36 separate pieces of legislation targeting women's health.

The first Women's Health Equity Act was introduced in 1990 as a result of a GAO report that documented wide-spread exclusion of women from medical research and energized caucus and women around the Nation to action on women's health issues.

For over 5 years, we have accomplished a great deal. We have achieved greater equity in both women's health research funding and inclusion of women in clinical trials. The increased funding for breast cancer research has resulted in the discovery of potentially lifesaving genetic information and therapy. As therapies are developed to cure genetic diseases, and potential links, the women and men affected must be assured access to testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection is guaranteed and I hope my colleagues will join me in that endeavor.

SPECIAL ORDERS

The Speaker pro tempore (Mrs. Vucanovich). 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 Arizona [Mr. Shaheeg] is recognized for 5 minutes.

[Mr. Shaheeg 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 Missouri [Mr. Skelton] is recognized for 5 minutes.

[Mr. Skelton 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 Indiana [Mr. Burton] is recognized for 5 minutes.

[Mr. Burton of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

INTRODUCTION OF HPV Resolution

The Speaker pro tempore. Under a previous order of the House, the gentleman from Connecticut [Ms. DeLauro] is recognized for 5 minutes.

Ms. DeLauro. Madam Speaker, I rise today to announce and celebrate the introduction of the Women's Health Equity Act of 1996. Included in the omnibus legislation are two bills that I have authored, the HPV Infection and Cervical Cancer Research Resolution and the Equitable Health Care for Neurobiological Disorders Act of 1996. Both measures will enhance the length and quality of life for women in this country, and should be enacted by this Congress.

First, I am proud to introduce the HPV Infection and Cervical Cancer Research Resolution. This vital legislation will speed the detection and diagnosis of cervical cancer, in fact, help to save women's lives. Early detection is the most effective method of stopping this killer of women. I know. I am a survivor of ovarian cancer, and early detection saved my life. As a measure enacted by Congress that the National Cancer Institute and the National Institute of Allergy and Infectious Diseases should conduct collaborative basic and clinical research on the human papilloma virus [HPV] diagnosis and prevention as an indicator for cervical cancer.

Approximately 16,000 new cases of cervical cancer are diagnosed each year, and about 4,800 women die from this knowledgeable physician. If cervical cancer is detected while in its earliest in situ state, the likelihood of survival is almost 100 percent. HPV is a known risk factor for cervical cancer. Of the more than 70 types of HPV that have been identified, types 16 and 18 in particular, have a strong linkage to cervical cancer.

With further study of the natural history of HPV and its association to the development of HPV, HPV testing may prove to be an effective tool to aid the early diagnosis of this deadly disease. Therefore, it is appropriate to recommend basic and clinical research to determine how to utilize this data in the screening of women in clinics and hospitals across the country. My legislation will bridge the gap between new scientific discoveries about the linkage of HPV with cervical cancer and practical application of that knowledge by physicians. If cervical cancer is detected while in its earliest in situ state, the likelihood of survival is almost 100 percent. HPV is a known risk factor for cervical cancer. Of the more than 70 types of HPV that have been identified, types 16 and 18 in particular, have a strong linkage to cervical cancer.

My measure expresses the sense of Congress that the National Cancer Institute and the National Institute of Allergy and Infectious Diseases should conduct collaborative basic and clinical research on the human papilloma virus [HPV] diagnosis and prevention as an indicator for cervical cancer.
disease is often compounded by severe financial burdens. My legislation recognizes the physical basis for many mental disorders, and requires their equal health coverage.

Just as the Kennedy-Kassebaum-Roukema health insurance reform bill addresses the need to ensure access to health care for Americans who change jobs, my bill ensures access to health care for Americans who suffer from mental disorders.

Both job portability and comprehensive coverage are key access issues in the health reform discussion. Without comprehensive coverage or health insurance portability, millions of Americans will be forced to seek treatment in expensive health care settings, like emergency rooms, or drain other social service institutions.

Mental disorders severely impact the health and the quality of life for millions of women throughout the Nation. Clearly, the equitable insurance coverage for mental disorders is an issue for all of us in society, as it is a woman's health concern, as well.

Tremendous mental illnesses like depression exist and have a very high rate of success; therefore, it is essential that women suffering from neurological disorders have access to the care that they need.

Madam Speaker, I am proud to announce the introduction of these two bills. I urge my colleagues to cosponsor and enact the omnibus bill.

STATUS OF THE DRUG WAR

The SPEAKER pro tempore (Ms. VUCANOVICH). Under a previous order of the House, the gentleman from Florida [Mr. Mica] is recognized for 5 minutes.

Mr. MICA. Madam Speaker, I come before the House this afternoon really concerned about a report that has now been released to the Congress. It is the National Drug Policy: A Review of the Status of the Drug War.

Madam Speaker, I serve on the Committee on Government Reform and Oversight, and this product is from our subcommittee, which I also serve on, which is the Subcommittee on National Security, International Affairs, and Criminal Justice. This report should be required reading for every Member of Congress, and should be required reading for everyone who is involved in the media of the United States, and it should be required reading for everyone who is involved in the media of the United States.

This report details a history of total failure of our Nation's drug policy, and we see that decline almost immediately the moment that President Clinton took office. This is one of the most startling reports to ever be produced by the Congress, and I hope it gets the attention of every Member of Congress, every parent and everyone in the media.

What it does is, it in fact outlines a policy of national disaster. President Clinton started this when he dismantled the drug office, and did not make drug prevention and attacking the drug problem a priority of this administration.

Madam Speaker, when he talked about gutting the White House staff, he in fact cut 85 percent of the White House drug policy staff, and that is where the cuts came in. That is where the attention was not focused. Then he appointed Joycelyn Elders, who made drugs and drug abuse a joke and sent a message that read: "just say no," it was the message of "just say maybe," and this report details the disaster that that policy has imposed on this Congress and on the Nation and our children.

Under President Clinton's watch, listen to this, drug prosecution has dropped 12.5 percent in the last 2 years. You have heard the comments about the judiciary he has been appointing and their decisions as far as enforcement, which in enforcement and prosecution a joke in this country.

Madam Speaker, let me tell you the details of what this report is about and how it is affecting our children. Heroin use by teenagers is up, and emergency room visits for treatment of heroin make up 12 percent between 1992 and 1993 alone. In less than 3 years, the President has destroyed our drug interdiction program, and we know that cocaine is coming in from Bolivia, Peru, and Colombia, and transshipped through Mexico, which he recently granted certification in the drug certification program to.

What did we do with the drug interdiction program? We basically dismantled it. What are the results, again, with our children? Juvenile crime. In September 1995 the Justice Department's Office of Juvenile Justice and Delinquency Prevention reported that, now listen to this, and this is from the report: after years of relative stability, juvenile violent crime is now on the rise, and what is known to law enforcement has been increasing, and juveniles were responsible for about one in five violent crimes.

We see what this failed policy of this Clinton administration has brought us. Juvenile use and casual drug use in every area, marijuana, cocaine, designer drugs, heroin. Every one of these areas is dramatically off the charts, and it is the result of a failed national drug policy, and the responsibility and the trail to responsibility leads right to the White House.

Let me say finally that even the media coverage of this situation is terrible. It is a national disgrace that the media is not paying more attention, that they in fact put on one antitrust ad per day in markets and the Federal Government controls the airwaves, so the media should have as much responsibility for getting the message out, the message of this disaster created by this administration, and should begin a policy of education.

Finally, the President's policy, every standard, including drug treatment, is a disaster, and I will detail this further in another special order.

WOMEN'S HEALTH ISSUES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, I take the floor first of all to say, in this month of women's history, how pleased am I that the President has made more history for women today. I thought the newspaper article was very, very exciting to talk about how the President has nominated the first woman to the rank of 3-star general. She is in the Marines, Maj. General Carol Mutter, and her wonderful motto is "perseverance pays." We salute her, and we thank the President for moving her forward, and I think all of our foremothers would be proud.

Madam Speaker, Congresswomen take the floor today and talk about the Women's Health Equity Act. The one thing that Congresswomen have the right to make a victory lap about is the progress that we have made on women's health in this body. If the Congresswomen had not been here, believe me, it would not have happened, because when we first got into this they were even doing breast cancer studies on men. They had no women in any studies, no women in the studies, no women in any studies. Basically the Federal Government's message to women was, we may as well go see a veterinarian, because what our own doctors got from Federal studies was really very little. They had to take studies done on men and then try and see if it distilled and was applicable to women.

We got all of that changed. After prior vetoes and everything else, we finally not only got it passed, but a President who would sign it and a lot of it on board. But we are still just beginning. Unfortunately, in this body they tend only to see women's health as circulating around reproductive issues and breast cancer. Those are both very important key issues, but there are any number of health issues that affect women that we have just begun to tap.

Starting in 1990, we put together different bills that all of us had dealing with different issues on women's health and we put them in one bill called the Women's Health Equity Act. Then we all cosponsored it together and pushed as much of it as we could.

This year there are 36 bills in there, and it deals with an awful lot of the things still on the table that we have not dealt with, everything from eating disorders, which affect women much more severely than men, all the way through to female genital mutilation, which this body has still refused to deal with, even though our European counterparts have, and there are all sorts of international bodies crying out, saying this is a human rights violation and that we
While every abortion sadly takes a human life, the partial-birth abortion method takes that life as the baby emerges from the mother's womb. Partial-birth abortion goes a step beyond abortion on demand. The baby involved is not unborn. His or her life is taken during a birth delivery. A procedure which obstetricians use in some circumstances to bring a healthy child into the world is perverted to result in a dead child. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

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

As you can see, the difference between the partial-birth abortion procedure and homicide is a mere 3-inches.

Abortion advocates claim that H.R. 1833 would "jail doctors who perform life-saving abortions." This statement makes me wonder whether the opponents of the bill have even bothered to read the bill. H.R. 1833 makes specific allowances for a practitioner who performs a partial-birth abortion that is necessary to save the life of a mother. Of course, there is not a shred of evidence to suggest that a partial-birth abortion is ever necessary to save a mother's life or for maternal health reasons.

Indeed, the procedure poses significant risks to maternal health. Dr. Pamela Smith, director of medical education, Department of Obstetrics and Gynecology at Mount Sinai Hospital in Chicago has written:

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

Further, neither Dr. Haskell nor Dr. McMahon—the two abortionists who have publicly discussed their use of the procedure—claims that this technique is used only in limited circumstances. Dr. Haskell advocates the method from 20 to 22 weeks into the pregnancy and told the American Medical News that most of the partial-birth abortions he performs are elective. In fact, he told the reporter:

"I'll be quite frank: most of my abortions are elective. From 20-24 weeks range probably 20 percent are for genetic reasons. And the other 80 percent are purely elective."

He advocates the method because, quote:

Among its advantages are that it is a quick, surgical out-patient method that can be performed on a scheduled basis under local anesthesia.

Dr. McMahon uses the partial-birth abortion method through the entire 40 weeks of pregnancy. He claims that most of the abortions he performs are nonelective, but his definition of nonelective is extremely broad. He describes abortions performed because of a mother's youth or depression as "nonelective." I can believe the American people support aborting babies in the second and third trimesters because the mother is young or suffers from depression.

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

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

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

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

To all my colleagues I say: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What you see is an offense to the conscience of humankind. Today, we will attempt to put an end to this detestable practice. After today, it will be up to the President. He has the power to stop partial-birth abortion or continue to allow the killing of a living child pulled partially from his mother's womb.
PARTIAL-BIRTH ABORTION BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of New Jersey. Madam Speaker, even if President Clinton bows to the pro-abortion lobby and vetoes the partial-birth abortion ban, the fact that the Congress, in what will be, as it was previously, a bipartisan vote in support of the ban and the fact that the American people and women of all ages, are beginning, and I mean just beginning, to face the truth and reality about the cruelty of abortion on demand will have made all of us is worth the effort.

I chair the subcommittee on International Operations and Human Rights. I also am chairman of the Helsinki Commission. I have been in this body now for some 16 years, Madam Speaker. I have always found when we work on human rights issues, it is never easy, whether it is trying to help a Soviet Jew, whether it is trying to help a persecuted Christian in the People's Republic of China, there are always these so-called unwanted people every day, day by day. Most tragically, the human rights abuse in this country is that which is directed at the most innocent and the most defenseless of all human beings, unborn children. This is the violation of human rights in the United States. In 1996, the killing of unborn children, 1½ million or so per year on demand, and most of them are for birth control reasons, not the hard cases, of the mother or even rape and incest. They constitute a very small, infinitesimal number of the abortions. Most of the abortions are done on demand.

Madam Speaker, I believe very strongly that the 22-year coverup of abortion methods, including chemical poisons, is coming to an end. I think most people are beginning to realize, salt solutions are routinely injected into the baby's body, killing that baby, because of the corrosive impact of the salt. And they are appalled.

Another method of abortion, the most commonly procured method, is the dismemberment, D&C suction method, where the baby's body is literally ripped to shreds. We have, because of the leadership of the subcommittee, as well as the gentleman Chairman CHARLES CANADY's bill, the 22-year coverup of the most defenseless of people, that is the baby. Hopefully, achieved the end of a very gruesome method of abortion, the partial-birth abortion method. This method in recent years has been done increasingly. It is being done in the later terms, in the 6th, 7th, 8th, 9th months of the baby's gestational ages. And, hopefully, even though the President may veto this, this will be the beginning of an effort to outlaw this sickening form of child abuse.

The picture we have on the floor is truly worth a thousand words. It shows what the doctor does, and I just would like to use the doctor who is one of the pioneers of this gruesome method. I will just very succinctly read his statement as to how this method is done.

His name is Dr. Martin Haskell, a doctor who performs partial-birth abortions by the hundreds. He has said, and I quote,

The surgeon takes a pair of blunt, curved Metzenbaum scissors in the right hand. He carefully advances the tip curved down along the spine under his middle finger until he feels contact at the base of the skull under the tip of the middle finger. The surgeon then forces the scissors into the base of the skull. Having safely entered the skull, he spreads the scissors to enlarge the opening. The surgeon then removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. When the catheter is in place, he applies traction to the fetus, removing it completely from the patient.

What this so-called doctor is describing, Madam Speaker, is infanticide. The baby is partially born, and this so-called doctor then kills the baby in this hideous method. Hopefully, this legislation will get a second shot, not withstanding the President's veto, so we can outlaw this gruesome form of child abuse and banish it from this land.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

[Mr. MCINTOSH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BILBRAY] is recognized for 5 minutes.

[Mr. BILBRAY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. SALMON] is recognized for 5 minutes.

[Mr. SALMON 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 New Jersey [Mr. SAXTON] is recognized for 5 minutes.

[Mr. SAXTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

WHY THE ENDANGERED SPECIES ACT SHOULD BE IMPROVED

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Alaska [Mr. YOUNG] is recognized for 60 minutes as the designee of the majority leader.

Mr. YOUNG of Alaska. Madam Speaker, I take this time to bring to the attention of the floor, my colleagues, and those that might have the opportunity to hear what I have to say why the Endangered Species Act should be improved. That is the subject of this hour of debate. I will be joined by other Members that were directly involved in trying to improve the Endangered Species Act.

Madam Speaker, I came to this House as a Representative in 1973. Later that same year, I voted, one of the few remaining people, who voted for the ENDANGERED SPECIES ACT OF 1973. There were only two hearings on the bill. There was no objection in the committee, and it very nearly passed unanimously on the floor. Those who voted for it never dreamed that some day it would be used by this Federal Government, the Government of the people, by the people, and for the people, supposedly, to control vast amounts of privately owned land, that is what has happened to the Endangered Species Act. It is a tragedy. It is a law with good intentions, a good goal, but it has been taken to the extremes that the American people no longer support thus endangering the species and why we must improve the act.

This law has resulted in some people losing the right to use their land, their land, not your land, not the Federal Government's, but because an agency, the Fish and Wildlife Service, has ordered them to use their land as a wildlife refuge. These landowners have not been compensated in any way, shape, or form, as our Bill of Rights requires. They still must pay their taxes on this federally controlled land and are singled out unfairly to bear the burden of paying for, supposedly, the public benefit. This has hurt not only the private landholder, the basis of our society, but it has imperiled the wildlife that depend on that land.

Because of the way that these Washington bureaucrats, primarily in the Fish and Wildlife agencies, have treated landowners, and particularly farmers, wildlife is no longer considered an asset by the landowners. Now the presence of wildlife is feared. A lucky few of these landowners have been able to file suit or fight the bureaucrats and eminent domain in court, those that have extremely great amounts of wealth. However, there are many people who have not been so lucky and have had to suffer the loss of their property or their livelihoods in silence so that the tens of thousands of dollars needed to defend their rights in court.

Since I became chairman of the Committee on Resources, I have tried to ensure full and fair public debate on how to protect our endangered species and our threatened species while protecting the private property owner. Our committee held seven field hearings and
five Washington, DC, hearings on this issue, the Endangered Species Act, and the revision of said act. We heard over 160 witnesses. Over 5,000 people attended and participated in these hearings. Through our hearings all over the country, we gave the American people an opportunity to help us write our recommendations for repairing the Endangered Species Act. What we learned from these hearings is that American people love wildlife and have a true appreciation for our natural resources. However, the American people also love and cherish our Constitution, our way of life, and our freedom. The American people want a law that protects both wildlife and people. They want a law that is reasonable and balanced. They want a law that uses good science to list the species. Right now, today, all it takes is someone to file a petition saying they think, in fact, it is endangered, and then the Fish and Wildlife Service, Park Service, whoever it may be, will have to make a massive study even though that species may never reside there. That is how this act has been misused. The American people are willing to make sacrifices if those sacrifices make sense and accomplish the goal of protecting truly endangered or threatened species. However, the current law on species, subspecies, and small regional subspecies, is based only on the best currently available science. That means, even though a species or sub-species may be thriving and abundant in various areas around the Nation, one small geographic population can be listed and can be used to stop the property owners from using their land in that area.

This is not America. The number of frivolous lawsuits that have been filed under the ESA have exploded. These lawsuits result in friendly settlements between the Government and extremist groups. The current law gives the Government control, more money under Government control, and more power. Let us not forget that word, power. We want to keep a good Endangered Species Act that truly protects our wildlife and our people. We want to give more to do these good things back to the people who can do it best, the American public.

I trust the American people to be good stewards. They have been in the past and will be in the future. When Federal action is needed to protect our wildlife that migrates across state lines, to protect our parks and refuges, to protect our waters and the air we breathe, we will continue to fund the millions to do the job, but we want to do it right.

Mr. Speaker, I take this time today because we need to make the Endangered Species Act work. We can only do so if we take up this important law and repair the damage that has been done.

Mr. Speaker, may I say, before I yield time to my colleagues, there is a case in California where a gentleman in fact is taking care of a small acreage of land and protects all species around it because he wanted to do so. Now he is under threat by the Fish and Wildlife Service saying because there are certain species, small acreage of land, that he can no longer till the land around it. In fact, he is prohibited from making a living, without compensation. They would be taking his livelihood away.

Why do you think those species are there? It is because he has protected them. He has provided them shelter. He has provided them with food and the love that takes to maintain the species. But somehow this Government and says, “Now, we know what is best. You must not disturb their habitat.” He was the one who protected the habitat.

He is being told by this Government that no longer has the sensibility to get out of the rain, that they know what is best for species. And he has a very serious choice to make: Is he in fact going to continue to protect those species or does he take his livelihood, or will he retain his livelihood and eliminate that species? He does not want to do that.

It is time we review this act and improve this act, to make it work for the people of America, protected endangered species.

Mr. Speaker, I yield 5 minutes to the gentleman from Utah, Mr. [HANSEN].

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman from Alaska yielding me time.

Mr. Speaker, I agree with the gentleman from Alaska. This is probably a very worthwhile piece of legislation, and I think the gentleman did the right thing in voting for it in 1973. However, that was not the Endangered Species Act work. We can only do so if we take up this important law and repair the damage that has been done.

The gentleman from Alaska gave some very good illustrations. In another case, I used to be Speaker of the House of the State of Utah. I that situation, I had to go talk to the Governor of the State every week.

I remember one day going down and talking to Governor Scott Matheson, a very nice man. He was just fuming. He was mad as could be. He said, “I am not going to let another blanket-eyed, blanket person come into this State and find an endangered species, because what do they do, they tie it up in critica...”

Now, is the perfect time to make a law that we see is not working.

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most impacted areas is Washington County in the little State of Utah. There we have four fish and a desert tortoise in that area. In addition to those, there are also approximately 50 species on the candidate list, some of which are threatened and are likely to be listed in the near future.

Accordingly, Washington County has the unfortunate experience of being one of the most heavily impacted counties in the United States. It is in the best interests of everyone, including State government, private landowners and the Federal Government, to try and work in partnership to preserve biodiversity and recover savable species.

To this end, the good people of Washington County have undertaken a habitat conservation plan that represents over 5 years of gut-wrenching effort, including the expenditure of over $1 million by a relatively small county to get this HCP approved. Another approximately $20 million will be expended by Washington County to see the plan fully implemented.

In addition to the millions spent by the county, the Federal Government is obligated under this plan to provide approximately $9 million to justly compensate affected landowners. Notwithstanding the fact that the Federal Government has this obligation, to date not one, not one single landowner has received payment for their land that has been rendered worthless by this HCP.

Knowing that the preservation of species is a top priority for everyone, it is important to emphasize that the current ESA, as regulated and implemented by the Fish and Wildlife Service, makes it difficult, if not totally impossible, to achieve this goal. Conservation of endangered species is best accomplished in an atmosphere that promotes a healthy economy founded on the principles of respect for voluntary involvement of local communities and affected landowners.

Perhaps the biggest problem of the current act, as interpreted by the Fish and Wildlife Service, is the use of the ESA to take people's private property without compensation and in some cases to insist upon totally unreasonable mitigation that prevents a landowner from utilizing all or part of their property.

We all share the same goals of a clean environment and preservation of species, but in order to accomplish this, we must restore some balance in the ESA, and that is what the gentleman from Alaska and the gentleman from California are trying to do. In concept it is unflawed, but the actual implementation of the law has become a nightmare for hundreds of communities around the country that will only worsen unless we have the courage to amend this act.

Mr. Speaker, I would urge the Members of this body to carefully consider what we have done, the problems we have, and they all ought to look at the map that shows if everyone of these endangered species is brought forward and is listed as critical, and then endangered, the Homo sapien might as well walk out as Jefferson Fordham said, and just leave it up to other things, because there will be no room for the Homo sapien if everyone of these is implemented.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I thank the gentleman for his comments. I hope the people watching and listening to this back in their offices understand that the gentleman from California and myself and the gentleman from Utah have tried to work out a solution to a very serious problem. When we passed this act, the regulatory law had come into effect. It is the regulatory law and the courts by extremist groups that have misinterpreted the law. We are trying to right this law so no longer can that occur, and also recognize the importance of man and his right to participate on private property.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Speaker, I would like to point out the two gentlemen here have done an especially fine job in putting this together. All the criticism I have heard around America is in generalities. We would specifically point to the law and say this particular part is wrong or that particular part is wrong. Do not give us these generalities. Everyone can stand up and beat their chest. We want to have people tell us where we are wrong so we can discuss it. So far I have not personally had that opportunity. I wish the people of the House would take the time to look at the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Texas, Mr. SMITH.

Mr. SMITH of Texas. Mr. Speaker, I thank my friend from Alaska for yielding me time.

Mr. Speaker. I'm pleased to join Chairman YOUNG of the Resources Committee to discuss the critical need to fix the broken Endangered Species Act. The Endangered Species Act needs to be reformed because the current law harms people and the environment.

Today, the Endangered Species Act does not protect species. It violates the basic rights of hard-working, law-abiding, tax-paying Americans, the very people who ought to be empowered to protect our natural resources. While the Endangered Species Act is flawed in a number of ways, I'd like to focus on three of the most critical areas where the Endangered Species Act desperately needs to be reformed.

First, the Endangered Species Act needs to be reformed to assure that it respects the basic civil rights of all Americans. The fifth amendment to the U.S. Constitution provides: "Private property shall not be taken for public use without just compensation."

This amendment guarantees a basic civil right: that no citizen in society can be forced to shoulder public burdens which, in all fairness, the public as a whole should share.

The fifth amendment does not stop the Government from meeting important public objectives. It simply ensures that those who want certain public benefits do not obtain these benefits at the expense of particular individuals. The fifth amendment is about fairness.

Usually, this simple, common sense, rule of fairness is followed. If the Government wants to use private property for construction of a highway or to create a national park, the Government simply condemns the land and uses the private property.

The requirement that Government pay for this private property—rather than simply taking this land—has not impeded the development of our highways or national parks. To the contrary, we have the best and most impressive highways and national parks the world has ever known. The requirement that Government pay for private property for use in these public endeavors simply ensures fundamental fairness.

But not all public uses are equal. When it comes to public uses of private property, private landowners are denied compensation. Americans whose land is used to protect endangered species suffer condemnation without compensation.

American whose fifth amendment rights have been violated by an unfair, and unconstitutional, application of the Endangered Species Act is Margaret Rector. A 74-year-old constituent, Ms. Rector purchased 15 acres in 1973. In order to protect endangered species, her private property was condemned and is listed as critical, and then endangered species suffer condemnation without compensation.

Ms. Rector is denied productive uses of her private land. Today, Ms. Rector’s property has lost over 97 percent of its value. Even though Ms. Rector is denied productive uses of her private property under a public law, the Government denies her just compensation.

The same rule of basic fairness that applies to Americans whose land is used as a highway or a national park benefit also should apply to Margaret Rector. Americans whose land is used for protecting endangered species are not second-class citizens, and it's time that their Government stopped treating them that way.

It is in the interest of every American to ensure that their Government does not impede their right to earn a living by making public use of their private property. To achieve this, it is essential that we reform the Endangered Species Act.
Second, the Endangered Species Act must be reformed to encourage protection of the environment. The reason the regulations were implemented was not to discourage resource conservation. Thousands of private landowners manage their lands as responsible environmental stewards. Unfortunately, in a classic example of unintended consequences, the Federal Government’s war on private property rights has actually undermined protection of endangered species, the very goal of the Endangered Species Act.

How did this happen? The Endangered Species Act imposes confiscatory regulations on private lands that contain valuable resources. It punishes ownership of vital or threatened natural resources. This discourages landowners from environmentally friendly land management practices, and deters the growth of wildlife habitat.

The story of Ben Cone is illustrative: Ben Cone is a North Carolina conservationist who carefully managed his 8,000 acres of timberland in North Carolina so as to nurture resources and attract wildlife to his property. Mr. Cone was successful, so much so that Mr. Cone’s property became the type of land that is habitat to the red cockaded woodpecker. How did the Government reward Mr. Cone for his successful environmental management? It forced him to bear a $2 million loss for his hard work by prohibiting any development of a small portion of his property. His lesson: accelerate the rate of clear-cutting the costly woodpecker.

The story of Mr. Cone is by no means the only evidence of the antienvironmental effects of the Endangered Species Act, as it is currently enforced. The Vanas Parks and Wildlife Department contend that adding the golden-cheeked warbler and black-capped vireo to the endangered species list has encouraged the rapid destruction of their habitat. It is my hope that the Government end its counterproductive, and unfair, reliance on heavy regulation and instead encourage private environmental stewardship.

As in so many other areas, the goal of our policies should be results, not more power and more bureaucracy in Washington, DC. Whether we’re talking about welfare, Medicaid, education, or protection of endangered species, the people of Texas, California, Wyoming, or Maine understand what needs to be done to meet important public goals. They don’t need unelected officials in Washington—who have never visited their land—telling them what to do.

The goal of our Endangered Species Act must be the protection of species, not the conservation of natural resources. The difference between Secretary Babbitt’s approach and the reform model that we’re discussing today is not the goal: both of us want to protect species. The question is how best to accomplish this goal.

We believe that landowners have an important role to play in resource protection. We believe that our resources must be protected with the landowners, not against them. And we believe that the kinds of disincentives that discouraged Ben Cone from protecting species must be eliminated.

The Endangered Species Act must be reformed to accomplish its goal: protection of species. Today it actually harms species.

Third, the Endangered Species Act should be used to protect species, not as a national land use planning device. When Congress enacted the Endangered Species Act, it did not intend to grant the Federal Government an easement over much of the private lands west of the Mississippi.

From the beginning, Congress realized the need to balance species protection with the rights and needs of people. Congress enacted this law to protect the bald eagle, to avoid direct harm to species whose numbers were low or depleted so as to avoid extinction. This is a laudable, and reasonable goal.

Unfortunately, too often what starts out as a reasonable and laudable Government program does not remain that way. Government officials at the Department of Interior have interpreted this reasonable law in an overbroad and unreasonable way so as to restrict activities on private property, regardless of whether an endangered species is threatened by this activity. The Government has used the Endangered Species Act to impose unreasonable restrictions on private lands regardless of whether the endangered species is on the land, will be harmed by the proposed activity, or has ever visited the land. According to the Department of Interior, as in the question of the bald eagle, the question is the type of habitat that the endangered species tends to use, the Endangered Species Act applies. Most recently, Secretary Babbitt has discussed expanding this habitat to cover entire ecosystems.

It’s time to return the Endangered Species Act to the original intent of its authors: to prevent harm to particular species. It’s time to remind Government officials that private property is privately owned, and that the families and individuals who purchased the land, not the Federal Government, have dominion over it.

The Endangered Species Act is in critical need of reform. Our reform goals must be: Prevent civil rights. Encourage private stewardship. Prevent Federal land control. Adoption of these simple, commonsense reforms, each of which is manageable when it enacted the Endangered Species Act, will put some balance into the Endangered Species Act and should actually help preserve the environment.

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Mr. YOUNG of Alaska. Mr. Speaker, I want people to remember and visualize the lady, the widow in Texas. She purchased the land in 1973, basically as retirement, if I am not mistaken. Mr. SMITH of Texas. That is correct. Mr. YOUNG of Alaska. And the value of that land prior to the golden-cheeked warbler supposedly was, was it valued to—do you have the value of that land?

Mr. SMITH of Texas. It was a couple hundred thousand and it depreciated in value 97 percent.

Mr. YOUNG of Alaska. My understanding is, it was valued close to a million dollars for her retirement and now is worth $30,000, if that, and, in fact, if it can be used at all. Again, it is my understanding, if I am not correct, you may answer this, that they had not found the golden-cheeked warbler but it was possibly the habitat for the golden-cheeked warbler; thus they declared it an endangered area for the species; is that correct?

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is absolutely correct. The golden-cheeked warbler had never been seen on her property, past or present. It just might someday tend to land there. For that reason the regulations were imposed.

Mr. YOUNG of Alaska. It is also the fact, I think, if I am correctly informed, that they have found golden-cheeked warbler in many other different areas but because of the so-called habitat is the reason they classified it, but they never looked at the other areas to find out if there was an abundance of them there or whether in fact they could be helped in another area. They have taken this widow, this 70-year-old widow, invested the money in 1973, and taken her retirement away from her. I say that for those that are interested in Social Security, Medicare, and Medicaid. This is your Government in action, with no science, only an agency’s idea of how the act should be implemented. That is why I thank the gentleman for supporting my efforts to improve the act so that the American people can regain their faith in this Government and also protect the species. I thank the gentleman.

Mr. POMBO. Mr. Speaker, along the same lines with this particular lady, I had the opportunity to hear her testimony before the endangered species task force. One of the things that she brought up at that time, and I thought it was very interesting, was that this was not some pristine isolated location, that this was in the middle of an area that was zoned for industrial development.

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is exactly correct. This is not an isolated incident. It is not the exception to the rule. This is very typically the area, where someone purchases property for investment purposes, for a retirement home in this case, and then sees the value of their lifetime savings, perhaps lifetime savings of two or
Mr. POMBO. You are telling us that if the golden-checked warbler were truly an endangered species, is not the Endangered Species Act working in the exact opposite direction? Is it not giving people the perverse incentive to destroy habitat so that they do not have a problem?

Mr. SMITH of Texas. I agree with the gentleman. I do not think the Endangered Species Act is being enforced as it is originally intended and, quite frankly, it has led ranchers or farmers to decide they are going to clear the brush that might be that critical habitat. Why wait for the Federal Government to, in effect, take over your property. The gentleman is absolutely correct. Unfortunately these regulations force individuals not to be good stewards, it forces them to perhaps take some action that actually hurts the habitat in order to try to protect themselves.

Mr. POMBO. So if the golden-checked warbler was an endangered species and we were truly trying to recover that species, is not the Endangered Species Act working in the exact opposite direction? Is it not giving people the perverse incentive to destroy habitat so that they do not have a problem?

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them better, appreciate them more, and they will work better; No. 2, they ought to be user friendly. That is, the people they affect ought to be taken into the equation. They ought to be considered. Public hearings, good science behind the decisions, evaluations and a chance for people to have an understanding of why this rule is important to protect a species and perhaps change the way somebody is using and enjoying their property, for example.

The rules in the end ought to be not only good common sense and user friendly, but they ought to be effective, to carry out the purposes they intend.

A good example in Louisiana right now is a thing called the black bear conservation effort going on in our State. It is a voluntary land management plan that landowners have entered into voluntary agreements with conservationists to help propagate the species of black bear that resides in Louisiana. The results have been dramatic.

Without Government intervention, without the Government coming in and declaring critical areas and coming down with all kinds of rules about what you can do or not do with your property, landowners and conservationists are working cooperatively today to bring back a species, a subspecies of bear, that some said was threatened or perhaps endangered. The result is that we are getting the recovery going.

Part of our commonsense plans to reform endangered species is to do just that, to put some good science into the equation that makes sure public hearings, that people have a chance to see and know what is going on, to make sure the regulations make common sense, that they are tested on the basis of effectiveness and cost benefit to make sure that we stress voluntary agreements first before we talk about compulsory agreement. Without Government intervention, the State of Florida down around Gainsville?

Mr. Speaker, I have said all along that we must be partners in this law in order to protect the species. You cannot expect the Government to protect the species by itself. The partners who should be part of it will in fact extinguish the species because they have no other choice.

Mr. TAUZIN. Mr. Speaker, a perfect example, this black bear deal in Louisiana. Not only was the conservation program working without any mandates from the Federal Government, not only was the black bear recovering; the Department of the Interior was not happy with that. They instead came in and proposed a $3 million critical habitat area. They were going to impose it without any public hearings. They would not tell landowners what it would do to affect the use of their property. In fact, in could not explain what the differences were going to be when they mandate this critical area.

Well, we insisted on some public hearings, got some good decisions, and then we made an edict; they got him in a cage and tranquilize those foreign wolves, and then they killed five of them in doing so at a cost of $7 million and transferred foreign wolves down into the United States, which are not the same DNA.

Mr. TAUZIN. Mr. Speaker, one of the things the gentleman from California [Mr. Pombo] has talked about at a round of listings, will be all kinds of insects. People's properties and values and their lives are going to be affected now dramatically because of the presence or absence of an insect anywhere near their home.

Mr. Speaker, this law is beginning to have effects that nobody calculated. If we do not somehow restore some common sense to it so that we can get more cooperative agreements in here
and more good science are going behind some of these decisions, we are going to have some real problems in this country.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman says 3,000 are going to be bugs. Let us stress that, bugs, things that you squish if you get on your property. If you decide that the red tick, the Mississippian tick that is awfully prevalent in the woods, and some places it is not because they are eradicated; if they decided that tick was—by the way, the tick carries disease, it is an endangered species, and I happened to get one of those ticks on my body as I was walking through the woods enjoying this beautiful flora and fauna, and that tick was on my body, I could not destroy it because of endangered species?

Mr. TAuzIN. You could if you wanted to——

Mr. YOUNG of Alaska. I would have to pay a $3,000 fine. Would I have to declare it with the Fish and Wildlife Department?

Mr. TAuzIN. I think you would probably find a way to hide that tick.

Mr. YOUNG of Alaska. Got to be one of those SSS's.

Mr. PomBo. Mr. Speaker, if the gentleman would yield on that. He is correct in his assumption of the 4,000-4,200 candidates, species. The vast majority of those are insects that they have on the species list. That is one of the major things is so critical that the Endangered Species Act be reauthorized and reformed in doing so.

Mr. Speaker, if they were to declare the gentleman's tick an endangered species, and it would not have to be endangered across the country, just in specific regions of the country, unique species, localized species, subspecies of the major tick species, they could list that as an endangered species. Not only would you get in trouble for smashing that, on the other side of that, under the way it is being implemented, they would have to import them from other areas of the country to reintroduce them into the areas where they had become endangered in order to maintain a viable population of them.

That is the absurdity of the act in the way that it is currently being implemented.

Mr. TAuzIN. Mr. Speaker, the biggest absurdity in my mind though, it is a fact that all of these decisions are being made without the benefit of good science. The law right now says that a listing can occur with what is called best available data, B-A-D. Bad science, whatever is available. If you only know a little bit, and that tells you it is endangered, then you have to list it under the current law. You do not need to do the research and find out whether or not, in fact, there are other populations of this animal or plant that you are going to alter that property to enhance its capacity to hold that species, I cannot do it.

Mr. YOUNG of Alaska. You cannot do it. You cannot even develop a wetland for species that would reside in a wetland. You cannot do it.

Mr. TAuzIN. If I own a piece of property that I thought was mine and I want to enhance it for wildlife conservation, if that is the endangered species on it, I cannot even do that. The Government will not let me even enhance my property.

Mr. PomBo. Under current law, Mr. Speaker, they will not allow you to enhance the largest population of endangered species on your property.

Mr. YOUNG of Alaska. But they can. The Government can introduce a species, they can go to Canada and get a foreign wolf and bring it down, but you yourself cannot do it on your own property.

Mr. TAuzIN. I want you to think with me, if we were able to change the law, if we could get something past this Congress and signed by the President, to bring some commonsense environmentalism to endangered species laws, and we had a situation where landowners would be encouraged to invite endangered species on their property and encouraged to enhance the conservation capabilities of their property and these species could grow and actually enhance the population significantly, if had that kind of law in place, instead of the one that tells the landowner, "you had better not find an endangered species on your property or we will shut you down; you had better not invite one on, because we will shut you down; you had better not even try to improve your property for species because we will shut you down," if we had that kind of law, which we do today, and we had the chance to build a better law that encouraged landowners to do the right thing, why would we not do that?

Mr. PomBo. If the gentleman will yield, Mr. Speaker, why we would not do it is because so many people have so invested in the current system. If we look at those that are protecting the status quo who do not want commonsense changes, it is because they would have to give up power, if you empowered people. They would have to give up money, the tens of millions of dollars a year in Federal grants that these extremists get in order to maintain the current system. They want to protect
the system that is in place right now because they have a pretty good thing.

Mr. YOUNG of Alaska. But they do not want to protect the species. They have not protected the species.

Mr. POMBO. The species has become secondary.

Mr. YOUNG of Alaska. They say it is a great success. In reality, there have been no species protected. They claim the eagle. The eagle was very viable in my people's problem. It was not the Endangered Species Act. It was not the Endangered Species Act. Once we stopped using DDT, we have eagles now in the majority of the United States today, and we have an abundance of them in Alaska, so it was not the Act. They keep saying, because it was the American bird. They keep saying, "This is what we did with this act."

Mr. POMBO. Mr. Speaker, if the gentleman will continue to yield, we talk about rewarding the incentives so people have a positive incentive, a positive goal to create endangered species habitat, maintain endangered species habitat on their property, so we are using the carrot instead of the stick. People will respond to that. Hopefully, we can get the right incentives. Hopefully, we can get things moving.

The other side of this is the regulatory process. This right here represents what a developer goes through if he wants to develop a house on a piece of property. Here are the steps that he has to go through just in case he has an endangered species problem. You wonder why houses cost so much money in this country. You wonder why the average working couple, the young couple my age, has such a difficult time purchasing a piece of property to follow the American dream. This is what has to happen before one shovel of dirt is turned, before one permit is issued.

Mr. TAUZIN. In fact, Mr. Speaker, not only are we not doing the right things, the law encourages landowners to do the wrong things, as the chairman of the committee pointed out.

We have, for example, in place in the Northwest, Snake River salmon, Columbia River salmon. We have a potential listing of several species of salmon, as the chairman knows, in the Pacific Northwest, Snake River salmon, Columbia River salmon. I can tell you from a scientific standpoint, and this is the important part, from a scientific standpoint there is little difference between the Snake River salmon or the Columbia River salmon. They are to the tributary, and the other continues on up. Yet, because of that potential listing and because, in part, of the bad science, that has been part of what is being suggested by NMFS we have drawdowns not based on science, where it simply has not worked. I think what the committee has done as part of a reform to this plan is to bring the local community, the State, the local counties, whatever the case may be, into saving those species.

We have, for example, in place in the big Columbia system an agreement that was brought about some 8 years ago by local entities, we call them the big Columbia PUD's, the public power systems that we have there, it is called the Bernita Bar agreement. What it has done is enhanced the spawning grounds on the lower free-flowing stretch of the river. This is precisely what people thought needed to be accomplished earlier on, and it was done on a local level. The way the act is written now, those sorts of things are not encouraged. What the committee has passed out, that is encouraged, so I congratulate the chairman of the committee for taking the lead on this. Hopefully, we can get something passed.

I also want to commend him for his leadership in introducing a comprehensive proposal that makes common sense reforms to the ESA. As a member of Representative Richard Pombo's House ESA Task Force, which held a series of field hearings throughout the country last year on this issue, I am quite pleased that he included so many of our recommendations in his bill, H.R. 2275.

Reforming this well-intentioned but out-of-control law has been one of my top priorities in the 104th Congress. The problem with the current version is that it does not properly balance our environmental needs with our economic realities. I strongly believe these goals can be achieved.

Mr. YOUNG of Washington. Mr. Speaker, I thank the gentleman for yielding, and I thank him for having this special order. The discussion that we have had has been, frankly, very interesting. What I would like to bring to this is the kind of a discussion from a macro standpoint. You have been talking about a micro standpoint. When I look at reforming the Endangered Species Act, I look at bringing good science in as being very important, as the gentleman from Louisiana, Mr. TAUZIN, has said, and also protecting private property rights. But in my area, the Columbia Snake Rivers that generate power and provide water for our farmers, we have been faced in recent years with an ESA mandated National Marine Fisheries Service (NMFS) Plan to protect several species of salmon that bring the largest costs for salmon recovery alone by the turn of the 21st century. The NMFS proposal recommends depleting the storage reservoirs on the Columbia/Snake mainstem by 13 to 16 million acre feet [MAF]. Up to 90 percent of the total storage capacity will need augmentation at the annual cost of $200 to $300 million. Worst of all, the best and most current science on this subject developed at the University of Washington indicates that in-river survival is better than previously expected, in fact, some 25 percent survival is estimated. Therefore, the science upon which NMFS is basing its recommendations is highly suspect. However, NMFS seems to have ignored this evidence and concluded that only dam operations are the problem. The point is we are about to enter into a process that will further restrict the economic opportunities of thousands of hard working men and women in our area with little or no scientific evidence that this plan will enhance or even protect existing salmon populations.

There are many factors behind the recent decline in salmon runs including the increase in ocean temperatures off the coast of Oregon and Washington, better known as El Nino. This increase in temperatures off our coasts has even caused declines in salmon runs and populations in rivers where no dams exist. At the same time, as I understand it, salmon runs in Chairman YOUNG's home State of Alaska remain much stronger due in part to significantly lower ocean temperatures. Let me be clear, my constituents and I are committed to protecting our precious salmon resource in the Northwest. However, we must do so in a common sense way that assures that these runs are protected for future generations to enjoy at minimal cost to our rural communities that depend on our dams for their economic survival.

One of the problems with the current law is that it mandates that all listed species be restored to original numbers. In some cases, this is a worthy and realistic goal. However, in other instances, it is counterproductive to the goal of species recovery. For example, in my area of the country, there is the Snake River Sockeye salmon run that we are spending tens of millions of dollars in an attempt to restore to original numbers. Almost everyone admits that it is virtually impossible to completely recover this run. However, under the current ESA, we are being forced to do just that when we could be hard working man or woman dependent on our natural resources, the ESA is in desperate need of reform.

My own area of central Washington is certainly no stranger to the existing problems of the ESA. As the location of many large dams and reservoirs, we are not in a position to consider removing Snake Rivers that generate power and provide water for our farmers, we have been faced in recent years with an ESA mandated National Marine Fisheries Service (NMFS) Plan to protect several species of salmon that bring the largest costs for salmon recovery alone by the turn of the 21st century. The NMFS proposal recommends depleting the storage reservoirs on the Columbia/Snake mainstem by 13 to 16 million acre feet [MAF]. Up to 90 percent of the total storage capacity will need augmentation at the annual cost of $200 to $300 million. Worst of all, the best and most current science on this subject developed at the University of Washington indicates that in-river survival is better than previously expected, in fact, some 25 percent survival is estimated. Therefore, the science upon which NMFS is basing its recommendations is highly suspect. However, NMFS seems to have ignored this evidence and concluded that only dam operations are the problem. The point is we are about to enter into a process that will further restrict the economic opportunities of thousands of hard working men and women in our area with little or no scientific evidence that this plan will enhance or even protect existing salmon populations.

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spending this money more wisely on improving salmon runs that are genetically indistinguishable from the Snake River Sockeye but have a far better chance of complete recovery. Under H.R. 2275, the ESA is amended so that salmon runs like the Snake River Sockeye are protected by law. We give greater consideration to enhancing healthier runs that have a better chance of full recovery. This change in the law will lead to a much larger and healthier salmon supply for our entire region.

But let us consider the ESA’s current problems with the fact that only a handful of species nationwide have fully recovered to the point where they could be removed from the list since the act was first enacted in 1973, it is quite evident that the current law is neither protecting species nor families that depend on our natural resources for their livelihoods.

One of the major reasons for the act’s failure to fully recover species is the set of perverse incentives that it encourages. The current law punishes people for protecting habitants on their property and rewards those who develop and use land, with no consideration for wildlife. These perverse incentives were mentioned over and over again by witnesses at our task force field hearings. That is why I am delighted that Chairman Young has included a number of our recommended reforms in his bill.

First and foremost among our task force’s concerns was the issue of compensation. H.R. 2275 encourages property owners to cooperate with the Federal Government in our efforts to protect species by compensating them when restrictions imposed by the ESA diminish their property’s value by 20 percent or more.

This much needed reform will not only encourage greater cooperation between the public and private sectors in protecting species but will also force the Federal Government to prioritize our limited financial resources on species that are most in need of recovery. Rather than scattering our current resources on fully recovering all species, as the current act calls for, H.R. 2275 will lead to more recovery of ESA success stories.

Equally important, our bill also encourages stronger science by requiring that current factual information be peer reviewed. In addition, the bill makes all data used in the decision process open to the public.

Mr. Chairman, I have barely scratched the surface in my limited time here this afternoon of all the improvements H.R. 2275 makes to the Endangered Species Act. Our task force continues to work hard in support of passing H.R. 2275 which addresses so many of our people’s concerns imposed by the ESA.

I am pleased that Chairman Young and Congressman Pombo have taken the lead on this legislation and look forward to continuing to work together on reforming this act so that it will better protect species and communities had by the current law.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his support and information. He brings up a very valid point. If we had listened to the locations, the States, and the communities concerned to solve the problem on the river, I would suggest another thing, as long as the gentleman brought it up, because I brought it up myself about importing the Canadian wolves down to reintroduce the wolves.

I have also suggested we can rebuild the Columbia River fishery by the enhancement with Alaskan stock. The answer I get from NMFS and the Fish and Wildlife Service is that they are not indigenous to the area. They are not part of the stream.” To them I say, “I thought you wanted to bring the fish back. We can help you do that.” They say, “We cannot do it.”

But let it also be known that we bring the wolves down, against everybody’s wishes and beliefs, and they are Canadians; because our fish come from Alasks, a State of the United States, they are saying, “They are not part of the system.” It is the mindset that we are dealing with today that is not working.

Under our bill, we will bring the people in and it will be part of the State, part of the community, and we will solve the problems and bring the species back. I am very excited about that. But it is also very crucial that those that might be listening to this program think about what we are trying to do, not gut it, not repeal it, but to improve upon it. That is what our bill does. I thank the gentleman.  

Mr. HASTINGS of Washington. One last thing I would mention, if I may, Mr. Speaker. That is that we had a meeting of some local people from our State, talking about the need to amend this act.

One local farmer made a very profound statement. I think it is indicative of probably all of us across the West that have private property, where the treat would come by having an endangered species found on our private property. This particular farmer said, “If I saw a potential endangered species walk across my property, my first reaction would be to shoot it and kill it and not tell anybody.”

Mr. HASTINGS of Alaska. They belong to the “Shoot, shut up, and shovel.”

Mr. HASTINGS of Washington. That is right. If we look at what the intention of the act was 23 years ago, and you voted for it because the intention was good, that action by this farmer would do nothing at all to enhance the species. It is counter to what we are trying to do. Why? Because of the heavyhanded administration coming from the Federal Government, because that is what this act says should be done. So it needs to be reformed, it needs to be reformed to bring the local people involved in this sort of stuff, but more important, common sense, and let us protect private property rights, because after all, that is a constitutional requirement.

Mr. PACKARD. Mr. Speaker, for decades the liberals in Congress have distorted the original intent of the Endangered Species Act to further their extreme agendas. In November, the voters cried foul and asked Republicans to restore rationality to our environmental laws.

Our reform proposal stops the radical environmentalists in their tracks. They will no longer ride roughshod over our property rights. Instead, Republicans will protect our natural resources as well as our freedoms.

In its current form, the Endangered Species Act creates perverse incentives for landowners to destroy habitat which could attract endangered species. Once these animals migrate onto private property, landowners lose their property rights to the snails, birds or rats who happen to move in. In essence, the ESA, as currently written, discourages the very practices which will ultimately protect endangered species habitats. Instead, we need to ask landowners to participate in restoring our natural resources. Property owners are not villains. Everyone wants to preserve our resources.

In addition, Federal bureaucratic administration and enforcement of the Endangered Species Act is tantamount to Federal zoning of local property. State and local officials have no say in how the ESA is implemented and enforced in their States and communities. State and local officials need to have greater control. They know what is best for their communities.

In my district I can give you several recent examples of government violating the rights of private property owners. One hundred twenty-one acres of the most beautiful property in Dana Point valued at over $1.5 million an acre was devalued because of the discovery of 30 pocket mice, an animal on the endangered species list. Years of planning for the use of this land had to be abandoned. The owner even offered to set aside four acres of his land just for the mice, about $150,000 per mouse, but the government said that was not enough.

Instead, Republicans will protect our natural resources as well as our freedoms. Under our bill, we will bring the people in and it will be part of the State, part of the community, and we will solve the problems and bring the species back. I am very excited about that. But it is also very crucial that those that might be listening to this program think about what we are trying to do, not gut it, not repeal it, but to improve upon it. That is what our bill does. I thank the gentleman.
have heard many of these myself as I have sat on the task force, on the committee, and we have held hearings, we have had a number of instances where this has proven not to be the case.

It is one thing to talk about it in theory, to be sure, but what is the impact on the property owner and to have the big hand of Government holding a gun pointed at your head. That is what we heard time and time again from these private property owners who all of a sudden are forced with mandates from the EPA or Corps of Engineers, or any other number of State and Federal agencies. It is just nearly overwhelming.

Let me just express strong support for the efforts of the chairman of the committee, and indicate to the American people that there is a real need to make sure that we are reasonable and responsible in dealing with our species, but there is also an obligation to protect our private property rights, and there is a reluctant need to make sure that we have a balanced, reasonable, and effective approach on this.

Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. RADANOVIĆ].

Mr. RADANOVIĆ. Mr. Speaker, I thank the gentleman. I wanted to add my comments into the Record regarding this legislation. I think anybody here on this floor is in favor of protecting endangered species, is in favor of protecting the environment, is in favor of good stewardship. The question remains, though, is it a responsibility of the private property owners, is it a responsibility of local government, is it a responsibility of State government, or is it a responsibility of the Federal Government, and where do those responsibilities lie?

I think the folly of the endangered species over the last year has demonstrated that the heavy hand of Federal Government care of the environment can produce some pretty crazy results. For instance, there was the arresting of a farmer in California for disking up five kangaroo rats and being sent to trial in Federal court. My hope is that in the adoption of the Endangered Species Act, according to the Pombo-Young bill, that that responsibility begins to be returned away from Federal bureaucrats and back down to the State, local, and private property owner level, because that is where good stewardship begins in this country.

Mr. RADOVIĆ. Mr. Speaker, will the gentleman yield?

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

Mr. RADOVIĆ. Mr. Speaker, the gentleman happens to come from a part of the country that has probably been impacted as greatly as any other region of the country in the central valley in California. I have been direct through the species that are directly in the area that have been listed, as well as the aquatic species that survive within the natural river system in California, which has impacted the delivery of irrigation water to a number of the gentleman's constituents.

Is it his opinion that if we went to an incentive-based system that operated where the individuals were rewarded for the stewardship of the lands and, quite frankly, had more of an impact on what recovery plans were adopted, what they look like, what best worked, would that work better for your constituency?

Mr. RADOVIĆ. Yes, it would. I have a number of cases where people have gone the extra mile to provide habitat on their farms, to provide for the environment, things that they would like to see on there, and then being further penalized because of the fact that they have done that. Current law penalizes any initiative like that that is out there and currently exists.

This country will not survive unless stewardship is brought down to the local level and people are given incentives to take care of their private property and the environment, because that is really a natural thing for people to want to do. I think that natural tendency ought to be encouraged through legislation.

Mr. POMBO. If the gentleman will continue to yield, being a farmer himself, could the gentleman describe the fear that his constituents feel when they may or may not have an endangered species on their property?

Mr. RADOVIĆ. I can tell you from personal experience where there were times when we would allow onto our property certain environmental groups to catalog certain species of flowers and different things. There is no way in God's green Earth we would be allowing that right now, simply because what it does is it leads to stealing of your private property rights. So under current law, there is a disincentive for us. The gentleman earlier mentioned the term 'shoot, shovel, and shut up.'

That is very, very clear in response to current legislation.

**REPUBLICAN ENVIRONMENTAL SWAT TEAMS OUT IN FULL FORCE**

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, the Republican environmental SWAT teams are out in full force today.

Speaker GINGRICH is advising his colleagues to show up at local zoos to counter the image that the Republican Party is out of touch and out of the mainstream.

And over the past few weeks, a number of our Republican colleagues have come to this floor to defend their record on the environment.

Every time I hear one of them, I'm reminded of the story about that man who was arrested for eating a California condor.

He was dragged into court and the judge said, "Before I lock you up, what do you have to say for yourself?"

The man said, "I judge, you don't understand. I told you I got caught in a terrible avalanche. I was trapped for days without food or water. When I was near death, a bird flew over my head, so I shot it down. I didn't know it was a California condor. But judge, if it wasn't for that bird, I would have survived.

The judge was so moved that he decided to let the man go free.

As he was walking out of the court, the man was stopped by reporters and they said, "Before you leave, we have to know one thing. What did the bird taste like?"

The man said, "Oh *** it's kind of a cross between a bald eagle and a spotted owl."

It seems to me that the Republicans have the same problem on the environment. They don't have any credibility.

On one hand they come to this floor to talk about the environment. But on the other hand, they're working in the back room with the polluters lobby to throw out 25 years worth of progress on the environment.

Don't just take my word for it, Mr. Speaker. Listen to what others have said.

The Sierra Club says that the GOP agenda "breaks faith with the American public."

The Natural Resources Defense Fund calls the first session of the Republican Congress "the year of living dangerously."

The nonpartisan National Journal says that a conservative Republican tide is threatening to wash away 25 years of progress on the environment.

And just today, the lead editorial in the Washington Post reads, and I quote, "Republican leaders began to complain last fall that their party has been misunderstood on the environment. They said they intended to moderate their position. But the persistence of the legislative riders that are continuing to push even this week 'suggests that there's been no moderation.'"

In other words, they're just as extreme as they were a year ago.

And most telling of all in a recent poll: 55 percent of Republicans say they don't trust their own party on the environment.

Mr. Speaker, all over America today, people are wondering: how did this happen?

How did things go so wrong so fast?

For 25 years, Democrats and Republicans have worked together to protect the environment.

And we are rightfully proud of all that we've been able to accomplish.

We won't go back. We must make tremendous progress. Today, 60 percent of our lakes and rivers are clean. Major rivers no longer catch on fire. Millions of Americans are breathing cleaner air.
Hundreds of toxic dump sites have been cleaned up. And tens of millions of Americans all over this country are reusing and recycling.

Together, we’ve banned DDT. We’ve protected millions of children from lead poisoning. We’ve cut toxic emissions from factories in half. And in the process of keeping our environment clean, we’ve helped create millions of jobs.

This is a proud record of progress shared by both parties. But at the same time, we all know: the job is not done.

Despite the progress we’ve made, 40 percent of our lakes and rivers are too polluted for swimming or fishing. One in three Americans still live in an area where the air is unhealthy. Ten million children under the age of 12 live within 4 miles of a toxic waste dump.

And as recently as 3 years ago, 104 people in Milwaukee died and 40,000 got sick when a toxin called cryptosperidium got released in their drinking water.

We’ve got a lot of work left to do. Yet, at the very moment when we need national leadership most the Republicans have mounted the most aggressive anti-environmental campaign in our history and are busy right now taking the environmental cop off the beat.

To understand how it happened, Mr. Speaker, you don’t have to do an extensive search.

All you have to do is understand the environmental journey of one man.

One man who went from the hilltop of environmental protection to the sludgepit of environmental waste.

One man who went from having a 66 percent League of Conservation Voters approval rating all the way down to zero today.

And Mr. Speaker that one man is Newt Gingrich himself.

Long before House Republicans ever signed the Contract With America, Newt Gingrich signed a different contract, a contract with every polluter and anti-environment special interest in the land.

To understand his journey is to understand the extremism of House of Representatives.

You know, there are a lot of people who like to joke that Speaker Gingrich is the kind of man who would junk up on a tree stump to give a speech on conservation.

But it wasn’t always that way, Mr. Speaker.

In the early 1970’s, before he was ever elected to Congress, Newt Gingrich actually taught a course on the environment.

In 1982, he earned a League of Conservation Voters approval rating of 66 percent.

In 1987–88, his approval stood at 50 percent.

That’s not a stellar rating, but it’s not bad.

But in 1989, something happened, Mr. Speaker. Something began to change.

People concerned about the environment began to notice that Newt Gingrich would no longer return their calls. He no longer spoke out on environmental issues.

And his voting record began to change.

In the 101st Congress, he sided with the oil industry and voted against States’ rights to set their own oil spill laws. In 1989, he sided with the timber industry and voted to allow unchecked logging in the Tongass National Forest in Alaska.

In the 102d Congress, he sided with the mining and grazing industry and voted to sacrifice nearly two-thirds of the California Desert to industry. In 1991, he sided with the chemical industry and voted against communities’ right to know when toxic waste was being dumped in their neighborhoods.

During this time, his voting record did more somersaults than Mary Lou Retton.

He flip-flopped on a bill to allow oil drilling in the Arctic Refuge. In the past, he sided with environmental protection. But now, he sides with the oil industry.

He’s flip-flopped again and again on a bill that will protect endangered species. In the past, he sided with animals and voted yes. Today, he sides with industry.

And through it all, the man whose League of Conservation Voters approval rating stood at 50 percent in 1988 began to take a nosedive.

In 1989, it went down to 10 percent.

In 1990, it stood at 13 percent.

In 1991, it dove to 8 percent.

In 1992, it fell to 6 percent.

In 1993, he felt guilty, so it went back up to 30 percent.

In 1994—zero percent.

In 1995—zero.

In 1996—zero.

The man who once taught a course on the environment was teaching us all how to sell out on the environment.

How did this happen, Mr. Speaker? What happened in 1989 to change things?

Well, its a simple answer. In 1989, Newt Gingrich was elected to his party’s leadership. He was elected Whip of the Republican Party.

From the day he was elected whip, Mr. Gingrich’s campaign coffers began to bulge with contributions from the biggest polluters and special interests in America.

I would submit to you, Mr. Speaker, that this is the same exact pattern we see repeating itself in the Republican Party today.

From the minute the Republicans took over last year, a small army of very powerful industry lobbyists descended on Capitol Hill as if they owned the place.

As Newt Gingrich’s own newspaper, the Atlanta Journal-Constitution wrote last May, these people have been, and I quote, “flooding the campaign coffers of friendly congressmen with hundreds of thousands of dollars in contributions.”

Together with their friends in the Republican leadership the polluters lobby has mounted an all out assault on our environmental laws and public health protections.

In one documented case, an industry lobbyist actually sat at the dais during a committee hearing and helped write the environmental laws of this Nation.

The polluters lobby is getting special favors, and the American people are paying the price.

I just listen to the parade of horribles that Speaker Gingrich and his special interest friends are trying to pass today.

I just listen to what the Republican environmental agenda does in 1 year’s time.

It cuts the Environmental Protection Agency by 21 percent.

It cuts pollution enforcement 25 percent.

It denies local communities $712 million to protect drinking water, which is 29 percent below the President’s request.

It cuts the land and water conservation fund 25 percent.

It even tried to kill the bipartisan Great Lakes initiative.

Because of all these budget games, 40 percent of all EPA health and safety inspections so far this year have been halted or canceled.

And that’s not all.

Their budget cuts Superfund cleanup by 25 percent, which has forced the EPA to halt cleanup at 68 Superfund sites so far this year, including 4 in Michigan.

It rolls back local communities right-to-know about toxic waste.

It cuts Superfund research by 75 percent.

It cuts the Endangered Species Act 38 percent below the President’s request.

It bars the listing of any new species as endangered.

It allows oil drilling in the Arctic Refuge.

It delays new meat inspection standards.

It weakens enforcement of the wetlands provisions of the Clean Water Act.

It accelerates—by 40 percent—logging of America’s old-growth rain forest.

It eliminates funding for the National Park Service at Mojave Desert.

It terminates the Columbia Basin Ecosystem Management Project.

It delays approving pesticides with lower health risks to farmers.

It even delays new standards for toxic industrial air pollutants.

Under the present system, polluters pay. Under the Republican system, taxpayers would be required to pay the polluters to stop polluting.

No wonder Speaker Gingrich is advising his colleagues to be seen at zoos. If they have their way zoos are the only place we’ll be able to see animals.

Just as important as what they’re trying to do is how they’re trying to do it.

They knew the American people would never put up with the outright
THE URGENT NEED TO IMPROVE OUR EDUCATION

The SPEAKER pro tempore (Mr. Ewing). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. Pallone] is recognized for 45 minutes as the designated majority leader.

Mr. PALLONE. Mr. Speaker, I yield first to the gentlewoman from North Carolina [Mrs. Clayton].

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for allowing me to share some of his special order time.

Mr. Speaker, today is the last day of the National Education Summit that is being held in New York.

Governor McCrory of North Carolina, who chairs the Education Commission of the States, has commented that the education agenda is the top priority among all the states, and the governor has been joined by his counterparts from across the Nation recognizing the urgent need to deal with America's education dilemma.

Most Americans, too, recognize the need to improve our education system so that all children have a chance to learn, develop, and to realize his or her full potential, and in doing so, to be able to make a contribution to society. Yet, many Americans understand, regrettably, that there are too many of our Nation's students who are not being prepared for success later in life, but are doomed to failure.

They are in overcrowded classrooms, schools with poor curriculums, limited equipment, and low educational standards. Their teachers are underpaid and under-educated. The odds are against our students will drop out before completing high school if they are not challenged.

Mr. Speaker, we are at an important crossroads in education. All levels of government, and the private sector, should be working together and investing more resources in education, not less resources.

Again, most Americans are committed to investing more to improve our education system. Most Americans want to support our children and to ensure our Nation's future. And, if we understand the economics of education, we would know that quality education is a good investment.

Too many of my Republican colleagues want to invest less in education—25 percent less in some cases. Others question whether the Federal Government should even have a role in education.

But, the question should be which programs justify higher investment because they provide a sound economic payout? Which programs have worked and have proved their effectiveness? And, how can we insure quality performance and accountability?

The Federal Government supports educational programs and opportunities that the States and local communities are unable to provide. Let me briefly mention three examples of such programs.

The first is Head Start, Healthy Start, and other preschool programs—they have also proven their worth. These programs enable all children to be ready to learn when they enter school.

These programs have been studied, researched, and assessed to determine their value, and the results prove that if they are of high quality, they dramatically increase the educational performance of participants throughout their lives.

Investment in these programs gives back great payoffs for our society.

Title I compensatory education funds is another proven program. Last year, the First Congressional District of North Carolina received $46,267,400 in Title I funds. These funds provided support to 30 school districts.

These funds provide for valuable teaching personnel and technology to our rural school districts throughout the Nation.

This program addresses critical needs, identified by local school systems and has an outstanding record of performance where the right staff ratio and implementation of resources have been made.

The third example, Summer Youth Projects also have proven their value in addressing the need to give young people training and work experience during the summer.

These projects sometimes provide the first real work experience, a disciplined environment, and the programs teach responsibility for the tasks assigned and how to work cooperatively with others.

Summer Youth Projects are effective in engaging young people in a constructive environment which contributes to their behavior and skill development.

Moreover, these projects are insurance against violence and disruption in our neighborhoods when young people are unsupervised and idle.

The three programs I have cited—the Pre-School Programs, Head Start, and Healthy Start; the Title I Program; and Summer Youth Employment—are all good educational programs that are provided by the Federal Government and deserve continued and increased investment.

These educational programs are a great payoff for our society. The programs can, certainly, be improved, can be made more effective. We should always seek to improve and to require full accountability for all resources. But, we should amend or reform our investment in the programs—not cripple or end them.

Mr. Speaker, We are at a crossroads. We must make required reforms, improvement, and sufficient investment to provide a quality education system where every child—every child has a chance to learn, develop, and contribute.
the rare opportunity that we have in this session in the next few weeks to pass meaningful health care reform essentially would be scuttled because of the language and because of the nature of the bill that Speaker GINGRICH and the Republican leadership would bring to the floor tomorrow.

Let me start out by saying that many of the Democrats that I work with were very pleased with it when the President, in his State of the Union Address, indicated that he would like to see brought to his desk and signed into law legislation that was initially sponsored in the Senate by Senator KASSEBAUM and also by Senator KENNEDY on a bipartisan basis. The hallmark of this Kennedy-Kassebaum bill, if you will, is to address the issue of portability and the issue of preexisting conditions.

Portability means your ability to take your health insurance with you, in other words, if you lose your job or you change jobs that you would not lose your health insurance, that you would be able to carry it with you.

In addition, when we talk about preexisting conditions, we are talking the fact that if a person gets sick in the U.S., if an individual has a preexisting condition, health condition, where they are disabled or they were hospitalized for a period of time, that they find it difficult to buy health insurance because the insurers simply do not want to cover them because they think it is too much of a risk. It is estimated that something like 30 million Americans are impacted in some way because of problems associated with portability or preexisting conditions and that if this legislation, as originally introduced in the Senate by Senators KENNEDY and KASSEBAUM, or here in the House, legislation that was introduced by the gentlewoman from New Jersey, Mrs. ROUKEMA, who is my colleague, a Republican from the State of New Jersey, that if their bill were to become law, addressing these issues of portability and preexisting conditions, that about 30 million Americans would benefit in some way because they would be able to carry their insurance with them from one job to another or would be able to get health insurance even though they might have a preexisting condition.

So when the President said that he was going to sign this bill and send it to the Congress in his State of the Union Address to move forward in passing this legislation, many of the Democrats were heartened, because we figured that even though this was a very small part of the health insurance reform, that it was something that was positive and we would like to see it move.

We had about, I think it is, up to 172 Democratic Members in this House who signed onto Senator ROUKEMA's bill and urged that the bill come to the floor exactly the way she had drafted the legislation. I should point out that I am actually the cochair, along with the gentlewoman from Missouri, Ms. MCCARTHY and the gentleman from California, Mr. DOOLEY, of the Democratic health care task force. We have two goals with our task force. One is to increase coverage, because many Americans do not have health insurance coverage and the number that do not have coverage continues to grow. And a second goal is affordability. We know that health insurance is increasingly becoming more expensive and out of the reach of a lot of Americans and that we would like to do what we can legislatively to make health insurance more affordable.

Well, the Kennedy-Kassebaum bill, the Roukema bill here in the House, achieves the purposes of increasing coverage, because more people would be able to obtain coverage through the portability and preexisting conditions provisions, and it certainly does not do anything to make health insurance less affordable. It might even help with the issue of affordability.

So we were very happy with the legislation. Our task force endorsed the legislation. We had 172 Members of the House on the Democratic side that supported the legislation; very optimistic at the time when the Republican leadership had in mind. We started to hear, a few weeks ago, that they were going to put this bill in various committees, that the various committees were going to come up with all kinds of antitrust issues, which make sense, a lot which did not make any sense, that would be ideas or legislative provisions that would be added to the Kennedy-Kassebaum bill, in an effort to try to load it up, if you will, with all kinds of controversial provisions that would make it more difficult to pass.

Well, I believe that is what is happening. I believe, Mr. Speaker, that based on what the Committee on Rules is reporting the bill, it might be loaded up today, even though myself and other urged them not to, that the bill that comes to the floor tomorrow is going to be a lot more controversial and a lot more complex and a lot more loaded down with provisions that are not necessarily good for the American people and that the bill tomorrow is likely to have provisions providing for MSA’s, which are medical savings accounts, it is likely to deal with malpractice issues, it is likely to deal with antitrust issues, it is likely to deal with antitrust issues, which make sense, a lot which did not make any sense, that would be ideas or legislative provisions that would be added to the Kennedy-Kassebaum bill.

What that means is the Republican leadership is bringing this bill to the floor loaded down with all of these controversial provisions and essentially will kill the bill, because it will not pass. Even if it does pass here, it will not pass with Democratic support, it will not pass the Senate, and the President will not sign it.

The worst part about this is the provisions that they intend to put in with regard to medical savings accounts, because there, unlike the original Kennedy-Kassebaum bill, which expands coverage and which at best leaves the question of affordability the same, this will make health insurance more costly and less affordable to the average American.

The principle of MSA’s, or medical savings accounts, basically says that if you are a fairly healthy individual or if you are a fairly wealthy individual or if you happen to be both, then you basically put your money aside in a savings account that is not taxable, essentially, somewhat like an IRA.

You only have coverage for catastrophic illness. So therefore, since you do not really need to pay for a lot of health-related activities, because you are healthy or whatever, or because you can afford to pay when you go do to a doctor out of the medical savings account that you have been accumulating in there, you enter into this sort of IRA, and at the end of the road, 10, 20 years down the road, you can simply take the money out of this MSA, like an IRA, and use it for other purposes unrelated to health.

The problem is that it damages the risk pool. Health insurance is based on the notion of a risk pool. The idea is that both the healthy people and the people who are not as healthy are all part of the same pool. If you take out the people that are the healthiest and leave the ones that are less healthy in the pool, the end result is that more money has to be paid out to cover their health care-related expenses, and therefore the premiums will go up for the people that remain in the pool and who have not opted for the medical savings account.

So what we believe will happen is that if MSA legislation goes into effect, the cost for people who still buy the traditional health insurance and do not enter into a medical savings account will actually rise. Their premiums will go up, and therefore insurance for the average person becomes less affordable instead of more affordable.

So we cannot, those of us who believe that we should be expanding coverage and making insurance more affordable, health insurance, simply cannot support the medical savings account. I am sure there are going to be people that are going to support the antitrust changes, and the antitrust changes, and all this good effort over the next few weeks to try to pass a clean bill that will simply address the issues of affordability, portability and preexisting conditions, as Kennedy-Kassebaum would do, simply goes down the drain because this bill is loaded up with all the other things that are controversial and make it difficult for the bill to pass and ultimately be signed into law.
clean health care reform bill, rather than have it loaded up with all these other extraneous provisions.

If I could just briefly read part of the editorial that was in the Washington Post on March 18 that says "Bad move on H.R. 2600" says exactly the way I and many of my colleagues on the Democratic side have felt that:

"Not too many weeks ago it seemed as if Congress was about to pass, and the president to sign, a modest bill to help people keep their health insurance while between jobs. Not even the principal sponsors, Sens. Nancy Kassebaum and Edward Kennedy, describe the bill as more than a first step. It would do little to afford the insurance, just require insurance companies to offer it to them. Still, it would be an advance."

Now, however, House Republicans are threatening to add to the bill some amendments from their health care wish list that could derail it. If some of these amendments are added, the bill ought to be derailed. The worst is a proposal to begin to subsidize through the Tax Code what are known as medical savings accounts. The underlying bill seeks to strengthen the health insurance system, not by making it seamless, at least by moving it in that direction. The savings account amendment would, instead, fragment and weaken the system instead. The Republicans in 1994 accused the President of overreaching on health care reform, in part to satisfy assorted interests. He ended up with nothing to put before the voters on Election Day. They risk the same result.

Under current law, if an employer helps buy health insurance for his employees, he can deduct the costs. I do not need to get into all of this. The Washington Post is recognizing what we all know once again, which is that we have a good bill here as Senators KASSEBAUM and KENNEDY have put forward, along with my colleague the gentlewoman from New Jersey [Ms. Roukema] and it should not be loaded down with MSA's and all these other provisions.

In fact, when this legislation went before the House Committee on Ways and Means, there were a number of Democrats who essentially expressed the same concern that I have, and they put out a dissenting view on the Kennedy-Kassebaum bill. They referred to the bill that it should be the "sink the good ship Kassebaum-Kennedy bill," because it was designed in every way to torpedo the passage of the modest helpful provisions of Kennedy-Kassebaum-Roukema.

The bill as reported by the Committee on Ways and Means, according to the Democrats in dissent, is not health insurance reform. It includes only a weakened version of the group non-discrimination provisions of Kennedy-Kassebaum. Of course, they again go into the whole problem with the MSA's and the problems that I have outlined before with the medical savings accounts and what they would mean in terms of the average person's health insurance costs or premiums going up.

In fact, we estimate that the proposal to include the medical savings accounts could end up costing taxpayers $2 to $3 billion overall, because essentially what the MSA's do is to encourage skimming or cherry-picking. The healthiest and wealthiest will leave traditional health insurance, thereby raising costs on everyone else. The high deductible insurance costing thousands of dollars that result from the MSA's are especially unaffordable for middle-class families or for the recently unemployed, the very people who most need insurance reform. One of the things that many of the Democrats have been pointing out about this legislation and the inclusion of the medical savings accounts is that it basically has been included by the Speaker and the Republican leadership in order to placate, if you will, the very people who most need insurance reform.

The Consumers Union is right when they say that these provisions are necessary to load, but why in this bill? Why go this route? When right now we know that we have an unbelievable consensus on a bipartisan basis for Democrats and Republicans to move forward with the Kennedy-Kassebaum-Roukema bill, why are we loading it up with all these other provisions that are controversial and in many cases are going to actually increase the cost of health care for the average American?

It is nothing more than another example of how the Republican leader of this House, with his interests first, has taken the interests of the wealthy and juxtaposed them against the interests of the average American. Hopefully some sense will prevail tomorrow. There will be a Democratic substitute offered that is essentially the Kennedy-Kassebaum-Roukema bill in its clean form.

I am hopeful that not only Democrats but Republicans will also support that substitute, and that we can get a clean bill passed here that deals with the issue of portability and also deals with the issue of provisions that have indicated that they would like it brought to the floor as a clean bill, because it will work.

I just wanted, Mr. Speaker, if I could for a minute, to talk about some of the things that the Consumers Union says about this legislation tomorrow and the fact that it has been loaded up with all these extra costs. They mention with regard to the medical savings accounts that the medical savings accounts disrupt the health insurance market by creating financial incentives that encourage division of health care risks. Actuarial studies conclude that MSA's would impose the relaxed antitrust provisions for provider networks, it opposes the limitation on medical malpractice, it opposes the private health insurance duplication, and, again, on the issue of the malpractice reform and antitrust, a lot of people disagree. I am not saying that the Consumers Union is right when they say that these provisions are necessary to load, but why in this bill? Why go this route? When right now we know that we have an unbelievable consensus on a bipartisan basis for Democrats and Republicans to move forward with the Kennedy-Kassebaum-Roukema bill, why are we loading it up with all these other provisions that are controversial and in many cases are going to actually increase the cost of health care for the average American?

The Consumers Union also opposes the relaxed antitrust provisions for provider networks, it opposes the limitations on medical malpractice, it opposes the private health insurance duplication, and, again, on the issue of the malpractice reform and antitrust, a lot of people disagree. I am not saying that the Consumers Union is right when they say that these provisions are necessary to load, but why in this bill? Why go this route? When right now we know that we have an unbelievable consensus on a bipartisan basis for Democrats and Republicans to move forward with the Kennedy-Kassebaum-Roukema bill, why are we loading it up with all these other provisions that are controversial and in many cases are going to actually increase the cost of health care for the average American?

The other thing I wanted to say is that many of the consumer groups have come out very much opposed to this larger grab-bag legislation, and most of the groups, whether it is the American Medical Association, the Independent Insurance Agents or a number of other health care organizations, have indicated strong support for the Kennedy-Kassebaum bill and have indicated that they would like it brought to the floor as a clean bill, because it will work.

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The recess having expired, the House was called to order by the Speaker pro tempore [Mr. ROGERS] at 5 p.m.

SENATE AMENDMENTS TO H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call the attention of the House to the Senate amendments thereto, and to consider in the House a single motion to concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

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

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

Mr. Speaker, House Resolution 389 provides for consideration of the Senate amendments to the Partial-Birth Abortion Ban Act, H.R. 1833. The rule provides for 1 hour of debate on a single motion to concur in each and all of the Senate amendments. The rule further provides that the previous question is considered as ordered on the motion for final adoption.

Mr. Speaker, this rule will allow the House to consider amendments adopted by the Senate to the partial-birth abortion ban including an amendment offered by Senator Dole that ensures doctors will be able to use this procedure when the life of a woman is in danger.

During consideration of this bill by the House last fall, serious concerns were raised about the affirmative defense provision included in the House bill that said that a doctor could not be convicted if using the partial-birth abortion procedure if the doctor can prove that the procedure was necessary to protect a woman's life. The affirmative defense, however, would not have protected a doctor from being arrested and prosecuted if using the procedure.

The Dole amendment adopted by the Senate addresses and ameliorates this concern. It clearly states that, without fear of prosecution, a doctor may use this procedure, when no other procedure is adequate, in order to protect the life of a woman.

Mr. Speaker, the rule is narrowly drawn so that we can adequately work with the Senate on changes that they have adopted through Resolution 389 and ask for its immediate consideration.

The Clerk reads the resolution, as follows:

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House a single motion to concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The Speaker pro tempore. The Speaker pro tempore.

Mr. Speaker, we oppose the closed process that would make in order consideration of the Senate amendments to H.R. 1833, the so-called and misnamed partial-birth abortion ban. This is a bill that on the pretense of seeking to ban certain vaguely defined abortion procedures is, in reality, an assault on the constitutionally guaranteed right of women to reproductive freedom and on the freedom of physicians to practice medicine without Government intrusion.

Those of us, Mr. Speaker, who fought for so many, many years to secure, and then to preserve and protect, the right of every woman to choose a safe medical procedure to terminate a wanted pregnancy that has gone tragically wrong, and when her life or health are endangered, are deeply troubled by the legislation before us today and by the rule under which it is being considered.

We say at the outset that the other body improved the bill by agreeing to the Smith-Dole amendment which does shield doctors from prosecution if they perform the procedure when the life of the mother was in danger, but only under certain circumstances. However, this is an extremely narrow so-called life exception that requires that the woman's life be endangered by, quote, a "physical disorder, illness or injury," end of quote, and it requires, further, that no other medical procedure would suffice.

It appears that if the mother's life is threatened by the pregnancy itself, then the procedure would still be illegal. And it does not take into account the fact that doctors do not use other procedures because they pose greater risks than does this method of serious health consequences to the mother, including the loss of future fertility.
And of course the Senate amendment does not provide an exception to preserve the mother’s health no matter how seriously or permanently it might be damaged.

For those reasons, Mr. Speaker, we feel strongly that a true life and health exception amendment should have been made in order.

It is bad enough, we feel, that we are being asked to vote on this irresponsible piece of legislation. To make matters worse, the vote is being structured to consider it under an unfair rule, and it is one that should be defeated. Once again the majority has brought this most controversial of bills to the floor under a totally closed rule. That we would again be forced to consider a bill of this importance and of this complexity under these restrictions is offensive, to begin with.

Once again, Members are being denied a vote on an amendment that would allow an exception to protect a woman’s life under any circumstances or to prevent serious adverse consequences to her health and future fertility.

The Committee on Rules heard very compelling testimony from the gentlewoman from New York [Ms. Lowery], the gentleman from Massachusetts [Mr. Frank], and the gentlewoman from Colorado [Mrs. Schroeder] on their request to offer a true life and adverse health exception amendment to the Senate language.

We believe Members should have had the opportunity to vote on allowing those exceptions to the ban.

This is obviously a basic and fundamental concern to women and to their families. Without that exception, the bill will force a woman and her physician to resort to procedures that may be more dangerous to the woman’s health and to her very life and that may be more threatening to her ability to bear her children than the method that we seek to ban. Making this amendment in order would have meant that Members could cast a vote that shows respect for the importance of a woman’s life, health, and future fertility.

Mr. Speaker, the truth is we have absolutely no business considering this prohibition and criminalization of a constitutionally protected medical procedure. This is, we believe, a dangerous piece of legislation. We oppose it not only because it is the first time the Federal Government would ban a particular form of abortion, but also because it is part of an effort to make it virtually impossible for any abortion to be performed late in the pregnancy, no matter how endangered the mother’s life or health might be.

What is at stake here is whether or not it will be compassionate enough to recognize that none of us in this legislative body has all the answers to every tragic situation which confronts a woman and her family. We are debating not merely whether to outlaw a procedure but under what terms.

If we must insist on passing legislation that is unprecedented and telling physicians which medical procedures they may use despite their own best judgment, then we must also, it seems to us, permit a life or adverse health exception. It is this way we can ensure that the bill might possibly meet the requirements that have been handed down by the U.S. Supreme Court.

Mr. Speaker, this is a very personal matter to the people involved. I would hope in the end, if not everyone has had the chance to read the very moving testimony of one of my own constituents, Mrs. Coreen Costello of Agoura, CA, in opposition to this bill. Mrs. Costello described herself as a conservative pro-life Republican who always believed abortion was wrong until she was faced with the choice that she was in this case faced with.

She recounts in detail the events that have led to confronting the painful reality that her only real option was to terminate her pregnancy. The bill before us would ban the surgical procedure Mrs. Costello had about which she wrote her letter. "I had one of the safest, gentlest, most compassionate ways of ending a pregnancy that had no hope. Other women, other families, will receive devastating news and have to make decisions like mine. Congress has no place in our tragedies."

Mr. Speaker, if I may add a personal note, in 1967, then-Governor Ronald Reagan signed California’s Therapeutic Abortion Act to prevent the most utterly heart-wrenching of all our tragedies, which was one of the first laws in the Nation to protect the lives and the health of our women.

When the U.S. Supreme Court subsequently ruled in Roe versus Wade that the government cannot restrict abortion in cases where it is necessary to preserve a woman’s life or health, I thought that to at least accept the precept that every woman should have the right to choose with her family and her physician, but without government interference, and when her life and health are endangered, how to deal with this most personal and difficult decision.

I see now that obviously I was wrong, and that this Congress is willing even to criminalize for the first time a safe medical procedure that is used only rarely, and only when all other avenues to end the most tragic of pregnancies.

Mr. Speaker, as I said, we believe this legislation is unwise, it is unconstitutional, and it is bad public policy to return to the dangerous situation that existed 30 years ago and more. This legislation is not a moderate measure, as its proponents argue. It is, instead, likely the first step in an ambivalent strategy to overturn Roe versus Wade, and we believe it would be a tragedy for all women and their families.

Mr. Speaker, it should be emphasized that what we are talking about making a crime is a medical procedure that is used only in very rare cases, fewer than 500 per year. It is a procedure that is needed only as a last resort, in cases where pregnancies that were planned and are wanted have gone tragically wrong. Adoption of the bill would have the results.

In cases where it is determined that an abortion is necessary to save the life of the women, the Senate amendment would force her to choose a method that may leave her unable to bear children in the future. The language of the Senate amendment will not protect women whose lives are threatened by their pregnancies, and doctors will be forced to choose other procedures, even if they are more dangerous.

Mr. Speaker, choosing to have an abortion is always a terribly difficult and awful decision for a family to make, but we are dealing here with particularly wrenching decisions in particularly tragic circumstances. It is bad enough, we feel, that it would be fitting if we showed some restraint and compassion for women who are facing those devastating decisions.

Let me end, Mr. Speaker, by quoting again, if I may, from Mrs. Costello’s testimony before the Senate Committee on the Judiciary, just a very brief amount:

"Due to the safety of this procedure, I am again pregnant now. Fortunately, most of you will never have to walk through the valley we have walked. It deeply saddens me that you are making a decision having never walked in our shoes. When families like ours and others are given this kind of tragic news, the last thing people want to seek advice from are politicians. We talk to our doctors, lost of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with God."

What happened to our family is heartbreaking and it is private, but we have chosen to share our story so that we hope it will help you act with wisdom and compassion. I hope you can put aside your political differences, your positions on abortion, and your personal feelings and just try to remember us. We are the ones who know. We are the families that have to hold our babies, to love them, to nurture them. We are the families who will forever have a hole in our hearts. We are the families that had to choose how our babies would die. Each one of you should be grateful that you and your families have not had to face such a choice. I pray that no one you love ever dies. Please put a stop to this terrible bill. Families like mine are counting on you."

Mr. Speaker, when I have said before, strongly oppose the rule before us and the bill that it makes in order. We urge defeat of the rule so we can send it back to the Committee on Rules and at least ask for a rule that would allow us to vote on an amendment to preserve the life, under all circumstances, and the health of the mother.

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

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

Mr. Speaker, before I yield to the next speaker, I think it is important that we recognize that the procedure
that we are talking about today is not a legitimate medical procedure recognized by experts of the American Medical Association. With all respect to my colleague on the Committee on Rules, for whom I have great respect and affection, I must question the experience that his constituent had. It seems to me, one that none of us hope we have to share.

But, Mr. Speaker, the American Medical Association's Council on Legislation, made up of 12 physicians, voted unanimously to recommend that the American Medical Association board of trustees endorse this partial birth abortion ban.

A member of the council, after they had discussed this procedure, said that they felt that this was not a recognized medical technique, and that the council members had agreed that the procedure was basically repulsive. We are not criminalizing an accepted medical technique, Mr. Speaker. It is unfortunate that we are having to debate what has been medicalized infanticide.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. Weldon).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding time to me, and I commend her and the Committee on the Judiciary for originally introducing this legislation.

Mr. Speaker, I was sitting in my office one day practicing medicine in 1993, when I got my copy of the American Medical News in which this procedure was first described where a baby is identified under ultrasound, the abortionist, using a forceps, reaches up into the birth canal and grabs the baby by the feet, dragging the baby out of the birth canal up to the level of its head, and then there, dangling outside the mother, typically with its arms and legs moving, a forceps is inserted into the back of the skull, an opening is created, the brains are sucked out, and the dead baby is then delivered.

I was amazed to read in this article that somebody could actually concoct a procedure this gruesome, and I was further shocked to read that the physicians who developed the procedure then went on to report that in 85 percent of the cases within which they do this procedure, there are no significant birth defects, and some of the defects that they cited, where they justified it, were not legal. They have restrictions on how you can do these procedures and when you can do them. Specifically, they are not legalized in late trimester, in late second trimester, and in the third trimester.

Mr. Speaker, on the other side of the aisle I thought encapsulated the whole issue very well. There are some people who would like the mother to be able to choose how her baby will die. The majority of this body voted once before, and will again vote, that there is a place where the Government of the United States has to draw the line and say, "This is beyond the pale." This is a total repudiation of the principles upon which our Nation was founded. I support the rule. I encourage all my colleagues to vote for the rule.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Ohio (Mr. Hall), a fellow member of the Committee on Rules.

Mr. HALL of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the Senate amendments to this legislation and was proud to be an original cosponsor of the House-passed bill.

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

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

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

Finally, Mr. Speaker, I do not want to discuss a bill relating to abortion with saying that we have a deep moral obligation to improving the quality of life for children after they are born. I am a Member of Congress who is opposed to abortion. But, I could not sit here and honestly debate this trimester with a clear conscience if I did not spend a good portion of my time on hunger and trying to help children and their families achieve a just life once they are born.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. Chabot].

Mr. CHABOT of Ohio. Mr. Speaker, today we will again vote on whether or not it should be lawful for an abortionist to abort a baby so that he can insert into the child's skull a scissor-like device that causes the brain to collapse, and it kills the child. Even those who advocate this type of abortion procedure should describe it. Only the most extreme ideologue could favor such a gruesome procedure where the mother's life is not at risk.

This whole debate is over whether thinking, feeling, healthy little babies who are within weeks or sometimes even days of natural delivery should be robbed of the opportunity to breathe the air you and I share. These babies, only inches away from being fully born, are no different from mildly premature babies. They deserve to live.

I celebrate the fact that today we will again make a step in representing those who cannot represent themselves by passing the partial birth abortion bill, and I strongly, strongly urge Members to vote for its passage.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Farr].

Mr. FARR of California. Mr. Speaker, this is not a bill about life, this is a bill about politics. Think about it. The House passed this bill in its original version to ban partial birth abortions. The Senate changed it. The Senate said, "You can make an exception to the ban in the case of the life of the mother." What is going on here? Congress is trying to be your doctor. Although this was a step in the era of getting Government off our backs, not the era of getting Government more into your personal issues.

Now it seems that we are imposing more Government regulations on a woman's personal life.
It is ironic that this Congress honors this month of March as Women's History Month. We celebrate women overcoming obstacles in their lives, women having liberties, and women having freedom of choice. Now here tonight, in a male-dominated Congress, the lawmakers are trying to take away a woman's right to decide what is right for her and for her baby. I have talked to constituents who have been forced to have this procedure to protect future fertility. I think we are foolish to think that we can handle this in a lawmaking process better than women can handle it in the medical arena.

Everyone knows that we cannot save life or make life by ordering it. Do not pass laws that may prevent healthy women from ever, ever becoming loving mothers. Support women. Support womanhood. Reject this rule. Reject this bill. Honor women. Honor medicine. Honor choice. Do not make bad law.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

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

Mr. BRYANT of Tennessee. Mr. Speaker, I rise in support of this rule which I think is a very good one. It allows the Senate amendments that were made to this bill to be accepted by this House, and I believe that the Senate amendments are reasonable and, as I said before, acceptable.

This rule continues to focus on the matter at hand, only the Senate amendments, and for that reason I do not think we need any extraneous amendments to this bill.

When this House considered the bill in the past, the recent past, it passed it by 288 people voting for it, which showed wide bipartisan support for this bill. Now, under the guise of protecting the mother's health, efforts are being made to change this rule or ask for amendments to allow this exception.

The Supreme Court has considered in the case of Roe versus Bolton that to protect the mother's health, that definition of health can encompass all factors, physical, emotional, psychological, familial, and the woman's age, all relevant to the patient's well-being. This type of exception, as we found in California, would open the door wide for doctors to use this horrible abortion procedure over to a way of executing people who have committed murder, on death row, there would be many in this body that would be the first to stand up or encourage people to go to court to stop this type of procedure if the abortion was necessary to a mother's health.

Unfortunately, the President and proabortion extremists continue to oppose this modest, widely supported bill. The President has threatened to veto this bill because it doesn't have amendments that would allow this gruesome method of execution.

A Court has defined "health" as anything that relates to one's well-being. Does that mean that being depressed or having a cold or allergies or a headache would qualify as jeopardizing health under such an open-ended definition? Certainly. In fact, the Court held in Doe versus Bolton that "health" encompasses "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient." Therefore, to add "health" to this legislation would gut the bill. The only method of doing so is, according to the doctors who perform this type of abortion, 80 percent of partial-birth abortions are elective. That means they are for almost any reason.

Mr. Speaker, let's be completely clear about the procedure that this bill would prohibit. The opponents of this bill would direct the debate to side issues, and for good reason: If the American people know the facts, they'll want this horrible abortion procedure banned.

While all methods of abortion are repulsive, barbaric, and nauseating, this abortion method reaches depths of inhumanity that only a calloused conscience could approve of.

Remember that this abortion procedure takes place during the second trimester or later. That's after the baby's heart is beating, which occurs at about 3 weeks after conception. That is after the baby's heartbeat can be measured, which happens at 6 weeks. That's after morning sickness has usually subsided, after 3 months.

First, the abortionist uses ultrasound—an amazing, high-technology medical tool that allows doctors and parents-to-be to view the baby inside the womb. The abortionist uses this tool of life as a tool of death. He uses ultrasound to guide his forceps to grab the unborn baby's leg.

Second, the abortionist pulls the baby by his leg into the birth canal and proceeds to deliver the baby's entire body, except for the head. Next, the abortionist jams scissors into the base of the baby's skull. That's the usual point when the baby dies. Let me interject here that the only thing that separates this act from murder is the fact that the baby's head is still in the birth canal.

Finally, the abortionist removes the scissors and inserts a suction catheter. The baby's brains are sucked out, collapsing the skull. The dead baby is then fully delivered. That's a partial-birth abortion.

Some of the so-called antichoice extremists who support this bill include the American Medical Association's Council on Legislation, which voted unanimously to recommend that the AMA endorse H.R. 1833. The council made that recommendation because its members concluded that partial-birth abortion is not a legitimate medical procedure. This statement begs the question, if partial-birth abortion isn't an acceptable medical procedure according to a professional body in the field of medicine, then why is this after-birth abortion? It certainly doesn't reflect the Hippocratic oath, which says doctors should first do no harm.

It is ironic that we wouldn't treat convicted capital offenders this way. The ACLU would be up in arms and in court and crying "cruel and unusual punishment" if a State tried to use these scissors in the back of the prisoner's skull and then suck out his brains with a vacuum cleaner.

In fact, a court in Washington State ruled that hanging convicted murderer Mitchell Rupe, who weighed 400 pounds, would be cruel and unusual punishment. Rupe had appealed his death penalty by arguing that because of his excessive body weight, the noose would decapitate him, and that would be cruel
Mr. FRANK of Massachusetts. Mr. Speaker, we will get to debate the substance of the bill, although very briefly. The gentlewoman from Utah [Mrs. WALDHOLTZ] said that this rule provides adequate time to discuss the Senate amendment. That is in fact, true. This is provides quite deliberately the minimum time that it is legally possible to give a bill on the floor of the House. The rule gives 1 hour. That is the minimum that is allowed under the rule. The Senate will try to suppress debate and discussion on this bill. We will get to the substance, but I want to talk here about the outrageous procedure. It is one more example of this majority running absolutely roughshod over the notion of open debate and democracy and fairness. This is, once again, a rule as we say in previous weeks where to achieve their political purpose, to make sure that their political message is unadulterated, the majority sacrifices the right of the American people to have free debate.

For example, the gentlewoman from Utah talked about the amendment that was adopted in the Senate. She said people felt that the life exception for the mother had not been right so the Senate straightened it out. Many of us raised that same point here in the House, and why did we not straighten it out here in the House? Because they had the same rules the last time. The Migratory Bird Treaty Act provides for penalties up to $5,000 in fines and 6 months in prison for destroying an eagle egg. The penalty under the Bald Eagle Protection Act is a fine up to $50,000 and a year in prison. The Endangered Species Act provides for penalties of fines and prison of 15 years and three years imprisonment for destroying an eagle egg. The penalty under the Bald Eagle Protection Act is a fine up to $5,000 and a year in prison. The Endangered Species Act provides for penalties for civil and criminal penalties; the criminal penalties for knowingly destroying an eagle egg, depending on the location where the egg is found, range to $50,000 in fines and 1 year in prison. Unborn eagles have that much protection under law. However, unborn human babies may be aborted at any time throughout the pregnancy. And in the case of partial-birth abortion, the baby can even be forcibly, partially delivered in order for the abortionist to destroy that baby's life.

Mr. Speaker, I have faith that the American people will make the right decision. Give the American people the facts, as has been done regarding partial-birth abortion, and they will arrive at the civilized, decent conclusion that this procedure should be outlawed. I believe the American people will remain true to our Nation's core values, that we are all endowed by our Creator with certain unalienable rights, among these, the right to life.

I conclude with these verses from Psalm 139: "For you created my inmost being; you knit me together in my mother’s womb. My frame was not hidden from you when I was made in the secret place. When I was woven together in the depths of the earth, your eyes saw my unformed body."

Mr. Speaker, I urge that we accede to the Senate's amendments. I urge that we adopt this rule. And I urge the President to reconsider his veto that has been signed.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK], who serves on the Committee on the Judiciary.
I know that democracy seems complicated to people who have so little practice with it. You are instead going to demand that we vote to make it criminal even if a doctor wanted to prevent serious physical damage to the health of the mother.

Mr. Speaker, I include the following letter for the RECORD:


STATEMENT ON H.R. 1833 THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called “partial-birth” abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demoting why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 993.

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

Mr. Speaker, I would like to simply respond quickly. The gentleman from Massachusetts is an excellent student of the rules of the House, and as such an excellent student of the rules of the House the gentleman knows that the minority had an opportunity to offer a motion to recommit when the House originally considered this bill. At that time the gentleman could have offered his amendment. He chose not to. The minority chose to not offer a motion to recommit. This bill went over to the Senate. It is back now for our concurrence.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I rise today in support of House Resolution 1833, the Partial-Birth Abortion Ban Act, and I urge my colleagues to vote in favor of the rule and the final passage of this important legislation.

As a pro-life advocate I am committed to protecting the rights of unborn children. My primary concern is that abortion should not be treated like a routine medical procedure. Although some consider partial-birth abortions routine medical procedures, this could not be further from the truth. Partial-birth abortions are not routine, legitimate or necessary.

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

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

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

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

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. S LAUGHTER].

Mrs. SLAUGHTER. Mr. Speaker, in every way this debate today is a tragedy.

First, I want to make it very clear, as clear as I can to people who are interested in knowing the truth, that the medical facts of the partial-birth abortions are very rare and they are not done as elective surgery at all. They are done in the case of a severely deformed fetus, a dead fetus, or a mother who will not survive until the birth is completed.

It is not a case of grabbing hold of two kicking legs and delivering a child that will be able to grow and respond to life. It is not a case of that at all. Why do we add to the awful tragedy of the families that desperately want the children that they are carrying and lose? Why do we say that the Congress of the United States knows better than the parents do and better than their doctor does, and we are going to require that they continue this pregnancy?

I am scared about the precedent that this legislation sets. To say that the procedure, practice and procedure, should be left to the Congress of the United States and not to medical people. A physician cannot choose this procedure even if other procedures would have serious health consequences, and we have talked about that, the possibility of loss of fertility.

Mr. Speaker, I ask defeat of this rule, which prohibits this House from modifying the draconian antiwoman provisions of this bill. I then ask my colleagues to preserve the right of women and physicians to make medical procedures based on the best medical advice by defeating this underlying bill.

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

I think it is important to point out the definition of elective and nonelective abortion regarding third-trimester abortions. In this particular situation, it depends on the definition of the person expressing it. One of the doctors who pioneered the partial-birth abortion procedure, as he called it, said the third trimester abortions he performed this way are nonelective, but he said that these abortions also are caused by factors such as maternal risk, rape, incest, psychiatric or pediatric indications. This doctor’s definition of nonelective are extremely broad. He went on to tell the Subcommittee on the Constitution that he had performed more than 2,000 of these partial-birth abortions and that he attributed over 1,000 of them to what he called fetal indications or maternal indications.

Of those indications, the most common maternal indication was depression. Other maternal indications included what he called teratogenic pelvis, their youth, spousal drug exposure, and substance abuse. Clearly, Mr. Speaker, what is elective or nonelective varies widely depending on the purpose of the person offering the definition.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SOURER].

Mr. SOURER. Mr. Speaker, first I want to agree with the earlier speaker.
that this amendment is actually not needed. We in the House had already protected life of the mother, but in the new language, “necessary to save the life of the mother whose life is endangered by a physical disorder, illness, or injury, provided that the minority of Congress making important medical decisions, particularly when a woman’s life is possibly endangered. Under this amendment, it is improved a little bit from leaving the House. The prosecution has to show beyond a reasonable doubt the doctor performed this procedure improperly except that if you get to that point is you charge the doctor and bring that physician to trial. For exercising medical judgment, a physician goes to trial. He or she cannot perform this procedure even to safeguard the severe adverse health effects to the mother, only for the life of the mother. I guess what concerns me the most is that in this legislation they would permit and the woman who asked that understood that something has to be done, requested something be done, she is not charged. This whole thing does not belong in the Congress, and Congress should not start down this road.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey [Mr. SMITH]. Mr. SMITH. Mr. Speaker, I thank the gentlewoman for yielding me this time. Mr. Speaker, for more than two decades the multimillion-dollar abortion industry has sanitized abortion methods by aggressively employing the most clever and most benign of euphemistic words. Until today they succeeded in a massive coverup about the sickening truth about abortion methods, including chemical poisoning of the child by highly concentrated salt water or some other method of dismemberment of the baby’s fragile body by a knife connected to a suction machine that is 20 to 30 times more powerful than the average vacuum cleaner, and now brain extraction, the method at issue today, as if the child’s brain were a diseased tooth in need of extraction or a tumor to be excised. Make no mistake about it, Mr. Speaker, partial-birth abortion is child abuse. And those who do it today have an unfettered right to kill. We can revoke that license to kill, Mr. Speaker, and we must. It is not sufficient to say, as the President, that he will have empowered the abortionist to kill babies in this way. If he vetoes this bill, he renews this license to kill. He bears the responsibility for the thousands of deaths that will result from this hideous method of abortion. Veto this bill, and there is no doubt whatsoever in my mind that Bill Clinton will go down in history as the abortion President.

Mr. Speaker, the abortion lobby has performed over 1,000 partial-birth abortions, said in a tape recorded interview with the American Medical News that of the procedures he does, from 20 to 24 weeks, 80 percent are, “purely elective.” The abortion lobby has also said that anesthesia kills the babies before they are removed from the womb. Even if that excuse were true, even if that rationalization were true, it would still mean that a baby dies. Nevertheless, the fact of the matter is anesthesiologists, the American Society of Anesthesiologists, the ASA, has testified that such an assertion by the abortion lobby has, and I quote, “absolutely no basis in scientific fact,” and is, “misleading and potentially dangerous to pregnant women.” According to the ASA, general anesthesia given to a pregnant woman does not kill nor does it injure an unborn baby or even provide the baby with protection from pain. And Dr. Haskell has said that local anesthesia he uses has no effect on the baby.

Mr. Speaker, to my left is a chart, one of a series of charts, medically correct, a diagram of what the actual procedure looks like. In an interview by Dr. Haskell to the National Abortion Federation in 1992, entitled “Second Trimester Abortion From Every Angle,” in September Dr. Haskell describes the partial-birth abortion this way. Remember, this man, one of the pioneers who is trying to promote the use of this despicable form of child abuse, as he says, and I quote, with the instrument, when the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws and firmly and reliably grasp a lower extremity of the child. The surgeon then applies firm traction to the instrument, causing a version of the fetus and pulls the extremity into the vagina. He then goes on to say that...

With a lower extremity in the vagina, the surgeon uses his fingers to tug the lower extremity, then the torso, the shoulders, and then the upper extremities, the skull lodges in the internal cervical os. Usually there is not enough dilation to allow the fetus out. At this point, this right-handed surgeon slides the fingers of the left hand along the back of the fetus and hooks the shoulders of the fetus with the index and ring fingers palm down, while maintaining tension, lift the cervix and applying traction to the spine and under his middle finger until he feels contact the base of the skull. Mr. Speaker, according to Dr. Haskell, the surgeon then forces the scissors into the skull, right into the skull of that baby. And then he introduces, a suction catheter, holds it and excavates the skull contents. Mr. Speaker, one nurse, a registered nurse by the name of Brenda Pratt Schaefer, witnessed several of these partial-birth abortions while working for Dr. Haskell. She said, in describing the process that...

The baby’s body was moving, his little fingers were clapping together, he was kicking...
his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors, inserted them into the back of the baby's head. Then he opened the scissors up. Then he stuck a high-pressure suction tube into the hole and sucked the baby's brains out.

This is child abuse, Mr. Speaker, let us face reality. And we can stop it.

First let me say, Mr. Speaker, I want to commend the distinguished gentleman from Florida, Mr. CANADY, the chairman of the subcommittee, for his courage in bringing this very important human rights legislation to the floor. This is the issue. This is the hot issue.

The abortion, lobby certainly does. They hate many others who fight for unborn kids.

But just let me say, protecting children and protecting human rights is always difficult. I serve as the chairman of the Subcommittee on International Operations and Human Rights. For 16 years I have been promoting human rights abroad. This, I would say, and submit to the distinguished colleagues, is a human rights abuse. Children are being slaughtered, some say 500, as if 500 is a small number of executions. That is, I think, a very conservative estimate; it is very likely many, many more than that. And it is being promoted as a method of choice.

\[1800\]

I would submit that we have the opportunity today to stop this kind of child abuse and to protect little children from this kind of killing. We ought to do it. Support the rule and support the bill.

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

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

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this rule. The bill in question presents a direct challenge to Roe versus Wade. As one member of the majority boasted, “We intend to bring the debate over what is known as the 10th Amendment into the hole and sucked the baby's brains out.” I take him at his word, because this legislation will do just that.

I would like to put a human face on this debate and talk about Coreen Costello, who is pictured here. Coreen Costello would have taken any child that God would have given her, regardless of any handicap. But this child, the child that she was expecting, was not a child that could live. The Dole amendment would not have allowed Coreen Costello to use the procedure that now allows her to have other children. She is currently expecting yet another child. The Committee on Rules denied an amendment that would keep Coreen Costello's doctor out of jail.

I urge Members to have a heart. Vote humanitarian, vote for children, vote for women, vote for families, vote against this rule.

Mr. BEILENSON. Mr. Speaker, I yield the balance of my time to the gentlewoman from Colorado [Mrs. SCHROEDER].

The SPEAKER pro tempore (Mr. ROGERS). The gentlewoman from Colorado is recognized for 4 minutes.

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

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

Mr. Speaker, I eagerly, eagerly ask Members to vote against this rule. This rule is one more gag rule put on doctors dealing with women and their families in the most difficult situations that any family would ever have to face. I think it is unbelievable that we are gagging Members of Congress from being able to deal with the severe and adverse health conditions a woman can have, and that is what is being done.

We are not being allowed to present that amendment.

The reason we are doing this today is really all political. Let us be honest. We have a letter from the President of the Senate vetoing this bill in this form because it violates Roe versus Wade. We now have a new decision, a 100-page decision in Ohio, where the same kind of procedure was tested and the court said no, that is violative of Roe versus Wade.

We have heard so many statements made here that were incorrect, that you do not even know what to say. People get up and they obsess on this, they obsess on that procedure and they obsess on all this stuff. The real issue is, show me an obstetrician and gynecologist that is going to do something terrible and evil and awful. We try to make this into a witch trial. Show me parents that would want this.

These are crisis situations, where everything has gone wrong. We are only talking here about late, late abortions, where people were clinging to that child trying to go as far as possible. If we deny this kind of procedure, we are denying to those young parents their chance to have another shot at being a parent, which is probably one of the most driving desires anyone has.

Why do I say that? Because there are other procedures available. Sure, you could have a hysterectomy. There are other procedures available. But, guess what? You lose your reproductive organs. This procedure has been put together so that the reproductive system can remain whole and they get another shot at being a parent.

Should that not be okay? You hear people talk about how these are elective. Elective? These are not elective. Who in the world would sign up for a process like this, unless it was absolutely essential.

This bill does not do anything about early abortions in the first trimester. Remember what Roe versus Wade said? In the first trimester, you could do whatever. That is the elective part. We are talking about the non-elective part, where Roe versus Wade said States can regulate this except in the case of life and severe health consequences to the mother.

Here is a mother that is happy we did not interfere in that, because she has gone on to be able to have another child, and she lived to see these two children grow to adulthood.

Is it the position of this Congress that another woman in Coreen's situation cannot have that opportunity? Are we going to move in and tell the doctors that would look at her health rather than this law, guess what, they go to prison for 2 years? Are we going to start criminalizing these medical procedures? And once the first medical procedure we will ever have criminalized. Is that not interesting?

Mr. Speaker, I will put in the Record a letter from the American Nurses Association speaking clearly that they are opposed to this bill, and the American College of Obstetricians and Gynecologists, who are the ones that are the specialists who deal with this. They are opposed to this bill.

Mr. Speaker, we ought to be listening to the specialists and to the people who are talking about this. If we really think our medical profession is so badly trained in America, so against life that they are out doing these grizzly, terrible things, then we better look at the whole medical profession. But I do not think so. I hear this obsessing that you are hearing, which is wrong. Vote “no” against this rule. Allow women to have their severe health consequences taken into consideration.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS DOES NOT SUPPORT H.R. 1833

DEAR COLLEAGUE: I thought you might be interested in the following statement released by the American College of Obstetricians and Gynecologists. Protect women’s health by voting “No” on H.R. 1833. PAT.


STATEMENT OF H.R. 1833—THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called “partial-birth” abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 939.


Hon. BARBARA BOXER, U.S. Senator, Washington, DC.

DEAR SENATOR BOXER: I am writing to express the opposition of the American Nurses Association to H.R. 1833, the “Partial-Birth Abortion Ban Act of 1995”, which is scheduled to be considered by the Senate this
week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

It is the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

Furthermore, very few of those late-term abortion cases occurred each year that were usually necessary either to protect the life of the mother or because of severe fetal abnormalities. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses and its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association respectfully urges you to vote against H.R. 1833 when it is brought before the Senate.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentleman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the rule and the bill. It is wrong-headed and should fail.

Mr. BEILENSON. Mr. Speaker, I rise in opposition to the rule and the bill. It is a direct threat to the health and lives of American women.

Mr. Speaker, we all hope that the number of abortions in this country can be decreased. But this debate is not about abortion. Restricting women's options that endangers the health of women is unconstitutional. The Supreme Court has stated that the Government may not ban post-viability abortions, but it cannot restrict abortion when the procedure may be necessary to save the health and life of the mother.

The life exception included in this legislation is far too narrow to protect women's lives effectively. The exception would allow this procedure only as a last resort when a woman's life is threatened by physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would effectively make the most direct threat to a woman's life in cases involving severe fetal anomalies— the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, this bill would require physicians to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock, or bleeding. Thus, the result of this provision is that women's lives would be jeopardized, not saved.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, Members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of the medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.
Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. Fazio].

[Mrs. Fazio of California asked and was given permission to revise and extend her remarks.]

Mr. Speaker, I rise in opposition to the rule and the underlying legislation.

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

The SPEAKER pro tempore. The gentlewoman from Utah is recognized for 3½ minutes.

Mrs. WALDHOLTZ. Mr. Speaker, let me address first the question that has been raised regarding this rule and the procedure by which this bill is brought to the floor.

We have heard complaints, Mr. Speaker, that there was not an opportunity to consider an amendment regarding the health consequences to the mother. But in fact, Mr. Speaker, as I pointed out earlier, the minority chose not to exercise its right to offer a motion to recommit when this bill first came to the floor. That was the opportunity, Mr. Speaker, that the minority had to offer whatever it felt was appropriate to change this bill. They decided not to do that. It is a bit disingenuous to complain about that now after the Senate has already taken up the bill, after the House had completed its debate.

In fact, Mr. Speaker, that particular amendment was offered in the Senate and it failed. We now know what the definition of health of the mother is, because the Supreme Court provided us with that definition in Roe versus Bolton, the companion case to Roe versus Wade, in which the Supreme Court defined health in the abortion context to include “all factors, physical, emotional, psychological, familial and the woman’s age relevant to the well-being of the patient.”

This is an extraordinary broadening of this bill. This bill was debated by the House, Mr. Speaker. It was debated by the Senate. We are back now to consider whether we should concur in the amendments that the other side has already stated improve the bill, a change appropriate to change this bill. They decided not to change it. That is not an opportunity, Mr. Speaker, that the minority chose to take advantage of.

Mr. Speaker, I move the previous question on the resolution. The previous question was ordered. The SPEAKER pro tempore. The question is on the resolution. The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

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

Mr. Speaker, I ask for support on this rule. Mr. Speaker, I move the previous question on the resolution. The previous question was ordered. The SPEAKER pro tempore. The question is on the resolution. The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. Speaker, I move the previous question on the resolution. The previous question was ordered. The SPEAKER pro tempore. The question is on the resolution. The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

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

Mr. Speaker, I ask for support on this rule.
The Clerk read the motion. MR. CANADY of Florida moves to concur in each of the six Senate amendments to H.R. 1833. The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida, Mr. Canady, and the gentlewoman from Colorado [Mrs. Schuette] each will be recognized for 30 minutes.

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

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 1833.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? There was no objection.

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

Mr. Speaker, I rise to express my support for the motion to concur in the Senate amendments to H.R. 1833, the Partial-Birth Abortion Ban Act. H.R. 1833 bans a particularly heinous late-term abortion procedure unless that procedure is necessary to save the life of the mother.

This is partial-birth abortion: Guided by ultrasound, the abortionist grasps the live baby's leg with forceps. Mr. Speaker, then the baby's leg is pulled out into the birth canal by the abortionist. The abortionist delivers the living baby's entire body, except for the head, which is deliberately kept lodged just within the uterus.

Then the abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hold in the baby's skull. The scissors are then removed, and a suction catheter is inserted. The child's brains are sucked out, causing the skull to collapse so that the delivery of the child can be completed.

Clearly, the only difference between partial-birth abortion, the procedure which my colleagues have just seen described, and homicide is a mere 3 inches.

The supporters of partial-birth abortion seek to defend the indefensible, but to prove beyond a reasonable doubt that the partial-birth abortion was performed to save the life of the mother or that another procedure would have saved her life.

Second, the Senate amendment restricts civil liability under the bill to physicians who perform partial-birth abortions or anyone who directly performs a partial-birth abortion. In other words, the amendment does not allow anyone who assists in a partial-birth abortion to be liable under H.R. 1833.

Third, the Senate amendment allows fathers to sue for damages only if the father was married to the mother at the time the partial-birth abortion was performed. The President has threatened to veto H.R. 1833 unless we make gutting changes to the bill. The President does not want to openly defend a procedure that 71 percent of the public says should be banned. Therefore, he is trying to deceive the American people by claiming he supports banning this, as he calls it, disturbing procedure while he has at the same time proposed an amendment that would gut H.R. 1833, making it totally ineffective.

Mr. Speaker, the President wants a bill that allows an abortionist to perform a partial-birth abortion whenever the abortionist says it is to prevent a serious adverse health consequence. The President wants to explicitly leave the definition of serious adverse health up to the abortionist. In Doe versus Bolton, the companion case to Roe versus Wade, the Supreme Court defined health in the abortion context to include, and I quote, "physical, emotional, psychological, familial, and the woman's age, relevant to the well-being of the patient." Partial-birth abortions are currently being performed for such health reasons as the mother's depression or young age.

While Dr. Martin Haskell, a prominent practitioner of partial-birth abortion, stated that 80 percent of the partial-birth abortions that he performed from 1994 to 24 weeks were non-elective, Dr. James McMahon called the partial-birth abortions he performed in the third trimester non-elective or health related.

In documents submitted to the House Subcommittee on the Constitution, Dr. McMahon's definition of non-elective is extremely broad.

Accordingly, if President Clinton had his way, even third trimester partial-
birth abortions performed because of a mother’s youth or depression would be justified to preserve the mother’s health. This is simply unacceptable.

Furthermore, Dr. McMahon told the subcommittee that he had performed more than 2000 of what he called intact dilation and evacuation abortions. He attributed more than 1300 of these late-term abortions to fetal indications or maternal indications. The most common maternal indication was depression. The fetal indications included pediatric pelvis, that is, youth, spousal drug exposure, and substance abuse.

I urge my colleagues to think about what this bill really is. This is not an abortion. This procedure is a convenient method for some practitioners to terminate the lives of otherwise viable infants.

Mrs. SCHROEDER. Mr. Speaker, I yield myself 2 minutes.

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

Mrs. SCHROEDER. Mr. Speaker, first of all, let me answer the gentleman who was just in the well. I think it is terribly important to say we were trying to offer the amendment that is the law of the land, which is severe adverse health consequences to the mother. I resent very much hearing that this is about cleft palates and these are designer things and so forth, because this is not, and there is no one in this body trying to make it that way.

Now let me tell you why I hate this debate. I hate this debate because this debate reminds me of my 30th birthday, and let me bring you to my 30th birthday. My 30th birthday was spent in intensive care, an intensive care in which I had been given last rites. I had a 15-day-old baby girl I had not seen a 4-year-old boy that I was terrified I would not see again. I want to tell the Members, that is scrambling, man. We had doctors, we had everybody running around figuring out what in the world can happen.

I just want to say to people in this Chamber, if you really think families in that situation want you, the U.S. Congress, to come in and tell them
which procedures their doctors may use and which ones they may not use. I think you are wrong. I think doctors think this is a zone of privacy and families think this is a zone of privacy, and that we should trust our doctors, although there are a few. Members here who trust Roe vs. Wade more than they trust the Government. But I happen to trust my doctor in that instance a whole lot more than I trust you Members of Congress. I want you to know it.

I wish you to know I also looked at your drawings. You know what it said on the bottom? It said, “Drawing commissioned by the National Conference of Catholic Bishops.” Maybe they deliver babies, and maybe they practice medicine, but I go with the American College of Gynecologists and Obstetricians, because those are the ones I know that deliver babies. I am tired of the playing politics on this. I think America’s families are tired of playing politics on this. I really think that that is all this is about.

I wish there were some way to bring some sanity to this. My time has expired. I have thousands more I could say, but I only want to tell you, my 30th birthday was hell, and because of people like you, I could be dead, and I resent that very much.

Mr. Speaker, I rise to urge my colleagues to oppose the motion that would send to the President an abortion ban that does not have an exception for the life or health of the woman.

When the House first voted on this bill, we fought hard, but unsuccessfully, for an opportunity to debate and vote on an amendment that would provide an exception to the ban in cases where the woman’s life or health is at risk. Since the original House vote on this bill, two noteworthy events have occurred.

First, an Ohio court has issued a 100-page opinion setting forth, with great detail and care, the unconstitutionally of a similar provision proposed in our state legislature. The court’s analysis is the fact that under Roe versus Wade and later cases, the government cannot ban abortions that are necessary to preserve the life or health of the woman.

Second, on February 28, President Clinton sent a letter to the chairman of the Judicial Committee clearly stating that he will veto the legislation unless it contains a true exception for the life and health of the woman, as required by Roe versus Wade.

Because H.R. 1833, both in its original form and as amended by the Senate, fail to include any exception for the health of the woman, and because the life exception is too narrowly framed to constitute a true life exception, the bill before us today is unconstitutional. It clearly violates Roe versus Wade, and most importantly, it sends an unacceptable message to American women that their lives and health are not worthy of full protection.

In the course of our committee’s hearings on this bill, we heard heart-rending stories from four women whose families benefited from the procedure. One bill would ban, in cases where terrible tragedies occurred late in the woman’s pregnancy. As I listened to these women’s stories, it became obvious to me that, in many respects, this bill is not about abortion at all. These pregnancies were wanted pregnancies, and the women told us that their families loved and cherished the babies that God was giving to them, no matter what disabilities those babies might have.

Unfortunately, these families had to confront the terrible tragedies that abortion was not to be for these babies, and they had to make decisions about how to manage the medical crises that confronted them in the way that best safeguarded the woman’s life, health, and her ability to have another chance at motherhood. They chose to consult with advice from multiple medical specialists, knowing that it posed the least risk to them and their future fertility. Some of these women told us that they were pro-life before they had this procedure, and they remain pro-life today. But they oppose this bill because it bans a medical procedure that preserved their health and their future fertility. Several of these women are pregnant again today, thanks to this procedure that safeguarded their reproductive capacity.

So, in truth, the bill before us today is as much about safe motherhood as it is about abortion. In 1920, 800 women died for every 100,000 live births. In 1990, 10 women died for every 100,000 births. While the maternal mortality ratio in the United States has decreased dramatically, pregnancy-related complications and deaths remain an important public health problem.

We cannot get complacent about safe motherhood. And an adjunct of safe motherhood is that when something goes terribly wrong with a pregnancy, the woman, her family, and her doctor have every right to do everything possible to preserve the woman’s reproductive capacity, so that she can have another chance at motherhood.

So many times when we say the words “life and health of the woman” people react as if it’s some kind of tricky legal technicality. That women don’t die anymore because of pregnancy or childbirth. As a woman who almost died after childbirth, let me assure you, it can happen. And the CDC statistics I am citing are a reminder that the life and the health of the woman can indeed be placed in jeopardy during pregnancy. One of the reasons that pregnancy-related death are hemorrhage, embolism, and hypertensive disorders. Combined, they account for over 70 percent of pregnancy-related deaths. That’s why options that reduce the risk of excess bleeding, such as the procedure we are considering today, can in many cases save the life or health of the woman.

You would think that Congress would have the sense to leave the practice of medicine to doctors. You would think that Congress would respect the privacy of the families who confront these terrible tragedies, and their intelligence in deciding how best to manage the life and health risks these tragedies bring with them. Instead, this bill tells these families that Congress would put the doctors who pre- served the woman’s life, her health, and her future fertility in prison for 2 years.

Look Coreen Costello in the eye, and tell her that the second chance at safe motherhood that this procedure afforded her is something that Congress is taking away. Sit down with her children and explain to them that Congress would subordiante their mother’s health to a political agenda, so that supporters of this bill can run sensational 30-second ads to advance their political ambitions.

If this committee were serious about passing a bill that would pass constitutional muster, we would be voting on amendments to cure the constitutional problems that are so carefully detailed in the Ohio court decision and the President’s letter. The President’s letter makes it clear that he would quickly sign a bill that contained an exception for procedures necessary for the life of the woman or to avert serious adverse health consequences to the woman.

Without altering the bill to cure the vagueness problem, the undue burden on pre-viability abortions, and most importantly, without adding a true life or health exception, everyone in this Chamber knows that this bill would be enjoined immediately by the courts. That being the case, what can the purpose be in forcing this bill to the President’s desk without a life or health exception? I am afraid I cannot see one other than political gamesmanship, and it is distressing in the extreme to see that game being played at the expense of the lives and health of very real women in this country, women like Coreen Costello and Mary-Dorothy Line.

I want a political game with the lives and health of the women of this country. Don’t vote to send this bill to the President without a health exception and without a true life exception.

Mr. Speaker, I include for the RECORD the following:

THE ISSUE IS NOT ABORTION

(By Mary-Dorothy Line)

My husband and I are extremely offended by the ad sponsored by the National Conference of Catholic Bishops that appeared in the March 26, 1996 edition of the Washington Post. A bill pending before the House (H.R. 1833) would ban intact dilation and evacuation (intact D&E) procedures used in some late-term abortions; late term abortions which are provided to protect the mother’s life or health when there is no hope for the baby. This legislation is wrong, and it would hurt a lot of American families. We know. We are one of those families.

I am a registered Republican and we are practicing Catholics. Last April, we found out our was pregnant with our first child and we were extremely happy. 19 weeks into my pregnancy, an ultrasound indicated that there was something wrong with our baby. The doctor noticed that his head was too large and contained excess fluid. This problem is called hydrocephalus. Every person’s head contains fluid to protect and cushion the brain, but if there is too much fluid, the brain cannot develop.

As practicing Catholics, when we have problems and worries, we turn to prayer. So, our whole family prayed. We were scared, but we are strong people and believe that God would not give us a problem if we could handle it. They all told us there was no hope for the baby, everything would be fine. We never thought about abortion.

A few weeks later we had two more ultrasound. We consulted with medical specialists, who all told us the same thing. Our little baby had an advanced, textbook case of hydrocephalus. We asked what we could do. They all told us there was no hope for the baby; everything would be fine. We never thought about abortion.

But we are strong people, and we never gave up. We asked about in utero operations and shunts to remove the fluid, but were again told that there was nothing that could be done. We were devastated. I can’t express the pain we still feel—this was our precious little baby, and he was being taken from us before we even had him.

My doctors, some of the best in the country, recommended the intact D&E procedure.
Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology, says it is crazy. The American Medical News reported in a January 1 article that “Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia.”

During the House and Senate debates over this measure, we heard several of the opponents piously express concern over the pain that the children might feel. Yet, they were willingly propagating the mistaken rhetoric of the extreme pro-abortionists, and undoubtedly frighten pregnant women in need of anesthesia for other medical reasons.

In Dr. Ellison’s words: “I am deeply concerned that the widespread publicity may cause pregnant women to delay necessary and perhaps life-saving medical procedures totally unrelated to the birthing process, due to misinformation regarding the effects of anesthetics on the fetus.”

Mr. Speaker, the Senate amendments to the bill clearly make an exception for the cases where the life and health of the mother are in imminent danger. The bill is to display the extremism in the defense of abortion rights that is beyond reason and without compassion.

In the immortal words of Abraham Lincoln:

‘Fellow Citizens, we cannot escape history. We will be remembered in the依照 of the extreme pro-abortionists, and undoubtedly frighten pregnant women in need of anesthesia for other medical reasons.

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In the immortal words of Abraham Lincoln:

‘Fellow Citizens, we cannot escape history. We will be remembered in the依照 of the extreme pro-abortionists, and undoubtedly frighten pregnant women in need of anesthesia for other medical reasons.

Mr. Speaker, the Senate amendments to the bill clearly make an exception for the cases where the life and health of the mother are in imminent danger. The bill is to display the extremism in the defense of abortion rights that is beyond reason and without compassion.

In the immortal words of Abraham Lincoln:

‘Fellow Citizens, we cannot escape history. We will be remembered in the
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It still allows an exception to the ban in order to save the life of the mother, and now provides in those cases that the prosecution must prove that there was no other alternative available to save the mother's life, rather than placentating the fetus. This clarifies that only the physician who performs the abortion may incur civil liability under the bill.

It allows fathers to sue a physician for damages only if the father and mother were married when the abortion was performed.

We must put an end to this barbaric procedure where the difference between abortion and murder is literally a few inches. This is effective legislation to ban an unbelievably gruesome act. I urge my colleagues to support it.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK], the ranking member of the subcommittee.

Mr. FRANK of Massachusetts. Mr. Speaker, I salute the courage of the gentlewoman from Colorado [Mrs. SCHROEDER] and her willingness to take this issue on.

Mr. Speaker, we are clearly here dealing with a political issue. We have one of Mrs. SCHROEDER's colleagues say the purpose of it is to give the President something to veto. The President has said, amend this bill and he will sign it. Amend it to say that if the particular procedure is deemed necessary by a doctor to avoid serious adverse health consequences, he can do it.

I understand that this bill would say to a doctor, if in his judgment performing the abortion in this way is necessary to prevent severe physical damage to the mother, or if it is not life-threatening, he cannot do it. He can do it if it will save her life, but if it will destroy forever her chances of having a child, if it will cause her serious, long-lasting physical pain and disability, this horrible time on time to do it.

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

Mr. FRANK of Massachusetts. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman is absolutely correct. They are saying that there is a life exception, but it is very cosmetic because the way I read the bill, it is that the doctor would have to prove there was no other medical procedure that was available and maybe there is another medical procedure but it would not be as good for her outcome.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, and of course that is only life. It does not deal with health. The majority refused to allow an amendment. Be very clear about it. We have twice asked them let us vote, as the Senate did, and the amendment in the Senate got 46 votes and lost narrowly.

Members have said, "Your health exception is too broad." My colleagues on the other side of the aisle can narrow it if they want to. But they cannot, however, object that we have one that is too broad when they have none at all; when they are asking the House to vote for a bill that will make it a crime for a doctor to perform this procedure even if he believes that performing it is necessary to prevent serious physical, long-lasting permanent damage to the mother. That is not a reason for going forward under this outrageous bill.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I salute the gentlewoman from Colorado for her leadership, and I want to reiterate some of the points that have been made before.

Mr. Speaker, it all boils down to this: A doctor is in an operating room, an obstetrician-gynecologist. There is a serious problem that evolves and the doctor has to make a judgment. Does it gain's wanted this body, or for any body, to impose the threat of a crime, a criminal penalty and a jail sentence, on that doctor while he or she is making the decision about what is best for health or for life?

Then let us say it even go with the narrow amendment of life. What is the doctor going to do? Is a doctor not supposed to worry that maybe his or her judgment is different than what a jury might determine 2 years later, not under the glare of the operating room lights?

This amendment is regrettable. It is unfortunate. I have some sympathy with those that disagree with my view on the issue of choice, about the idea that it should not be easy and it should not be a quick decision, and abortion should not be a method of birth control. We are not talking about that here because in these cases the mother, her judgment is different than what a mother of the child were married when the abortion was performed.

We must put an end to this barbaric procedure where the difference between abortion and murder is literally a few inches. This is effective legislation to ban an unbelievably gruesome act. I urge my colleagues to support it.

Mr. SCHUMER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Ms. LOFGREN], a distinguished Member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, politicians in Congress have issues. We have wedge issues, we have issues we put in direct mail and we have rhetoric. I have heard a lot of partial discussions, selected comments that are meant to inflame, meant to persuade, and I think in some cases meant to mislead. But the people who will be hurt by this bill do not have issues. They have tragedies, and they do not need this bill to pass.

Mr. Speaker, I want to talk about people I really know, my friend Suzie Wilson's son and daughter-in-law, Bill and Vicki Wilson, and their wonderful children, Jon and Kaitlyn, because 2 years ago this April 8th they lost Abigail.

They were very much looking forward to Abigail. They had two baby showers. The nursery was full of pink ribbons waiting for Abigail, and in the eighth month they found out that all of Abigail's brains had formed outside of her cranium and that there was no way that this child could survive. It was a tragedy.

They took their case to the doctor, who was able to save Vicki's life and to save her fertility. The question that faced them was not whether Abigail could live, but how would Abigail die and whether Vicki's uterus would burst while Abigail was dying.

I am glad that Vicki and Bill had the chance they did to keep their family intact, but I know a lot of people, we friends of the family. They did not need the Congress of the United States to help them at that moment. They needed a doctor. They needed the
love of their friends and their family. They needed the guidance of God.

Mr. Speaker, I have talked to Members in this body who have told me privately that if it were their wife, they would want this procedure, and then gone on to say, "But I voted against it." But if I would ask all of you, do your politics with some other issues. Hurt someone else. Search your conscience and look at my friends, the Wilson family. Think of them and put politics aside.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, on Friday this House voted to repeal the assault weapons ban as a payoff to the NRA. Today we are voting to ban a rare but sometimes medically necessary procedure as a payoff to certain right-wing elements within the Republican party.

Mr. Speaker, we need to be honest with each other. Anti-choice forces see this ban as the first step toward ending a woman's right to choose in America. As far as the anti-choice forces are concerned, there is no difference between the procedure we are debating today and abortions in the cases of rape and incest.

Yet these same radicals believe that properly manipulated, this late-term procedure can be the wedge issue to divide the overwhelmingly pro-choice American public. Today, it is this procedure. Tomorrow, it is family planning.

Mr. Speaker, no one in this body likes this procedure. And, yes, it is unpleasant. But this rarely used medical procedure remains necessary to ensure that women who must have an abortion are still able to bear children afterwards.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I rise today in absolute support of H.R. 1833.

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

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

The Senate amendments improved the bill only marginally, and I must say, "no!" because, one, I believe strongly that we should not develop medical procedures on the floor of this House and am deeply concerned about where this might lead. And, third, I believe strongly that we should not criminalize a medical procedure. For these three reasons, I must vote no.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 1833 and criminalizing late-term abortions.

First of all, this conference report is a cruel, a very cruel attempt to make a political point. Make no mistake about it, ladies and gentleman, this conference report, with all of the emotional rhetoric and the exaggerated testimony, is a frontal attack on Roe versus Wade by the Gingrich majority, plain and simple. With the Gingrich majority, what they want is to do away with Roe. The radical rights wants to do away with Roe, and H.R. 183 is a good first step as far as they are concerned. So let us be honest about what this debate is really about.

This legislation seeks to prohibit the use of medical procedures which are rarely used but are sometimes required in the late stages of pregnancy, like with the Wilson family, in extreme and tragic cases when the life of the mother is in danger, or the fetus is so malformed, that it has absolutely no chance of survival. For example, when the fetus has no brain, or the fetus is missing organs or the fetus's spine has grown outside of its body, when the fetus has zero chance of life, when women are forced to carry these malformed fetuses to term, they are in danger of chronic hemorrhaging, permanent infertility, or death.

Mr. Speaker, for the first time ever, Democrats and Republicans will send to the President a bill that says "no" to the horrific procedure that literally sucks the brains out of a baby's head. This is not only to make a kind of fiction. It is the reality of this horrendous child abuse.

A registered nurse, Brenda Pratt Safer, said after seeing some of these partial-birth abortions, and I quote, "The baby's body was moving, his little fingers were clasp together, he was kicking his feet. All the while, his little head was stuck inside." Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he opened up the skull. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out.

Mr. Speaker, for the first time ever, despite the extraordinary ability of the pro-abortion lobby to obfuscate and confuse, the reality of abortion is finally getting the scrutiny it deserves. By addressing this particular kind of abortion, this legislation compels us to face the dark secret, the cold fact that an unborn baby, an unborn person, has distinctively human characteristics. Members can support this kind of abortion. Two decades of cover-up are over. I would say to colleagues that the brutal methods,
whether it be chemical poisoning or suction, dismemberment of a baby, in this case a partially delivered baby killed with brain suction, this must be brought to the forefront so the people know exactly what is going on.

I have heard the President says to the bill that he will sign it. I hope he signs it. It is not likely. He will have earned the legacy of being the abortion President. What a tragic, what a pathetic legacy to be the abortion President, especially a man who once in his past used to be pro-life.

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

Mr. Speaker, I am sorry the gentleman would not yield. I wanted to point out it does say it was the Conference of Catholic Bishops that created that posture.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, it is really tragic, tragic that the personal problems and the anxieties of women who face these very, very difficult decisions that must be made with regard to their health and their safety and the integrity of their family and to have those tragic circumstances of a person’s life be used under these circumstances to advance this political goal of trying to do away with abortion.

But I think that the debate clearly points out that what is being attempted here is a denunciation of the rights of women that have been created by the U.S. Supreme Court. That is what is at stake here.

It is not this procedure that is used so few times out of necessity, but it is the principle of interfering with the doctor and the women that require this procedure, taking away the right of a woman to make this difficult decision, taking away the right of a woman to consult with her physician about what needs to be done, allowing the Congress of the United States to make these decisions. I think that is the most reprehensible thing we could even think of.

We talk about getting big government off the backs of people. Well, let us concentrate about what we are trying to do today. We are trying to take away the rights of reproductive freedom that the Supreme Court has established, which the courts have said we must not interfere, and this is what is before us today, and that is why this Congress must oppose it. That is why this bill must never become law. It is trying to dictate to the doctors how to practice and criminalize their profession. I think it is outrageous.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Budget.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

I am not a criminal, Mr. Speaker. And I am ashamed that what we are doing today may, in fact, make innocent women, women who love children, criminals. Coreen Costello, Mary-Dorothy Lines, Claudia Ades, Viki Wilson, Tammy Watts, and Vikki Stella, all women who offered their most personal stories about wanting to conceive and to have a loving child and yet coming upon a physical and debilitating need to have a medical procedure.

Today we have legislation that will not cover an abortion, when a woman’s life is in danger. The bill will not provide a health exception. H.R. 1833 creates obstacles to medical research, and tragically the life exception will not protect women. Criminals, we are making. Women, their families, their physicians. This is not the way to go.

In order to suggest that those of us who rise to support the rights of women do not have a love of a higher authority, how shameful. This is a bad day for this country. It does not help women, and it certainly does not help the love we have for our children.

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

Mr. Speaker, I want to respond to a point that was made a few moments ago about this bill criminalizing the activities of women and making criminals of women. That is simply not true. I would suggest that before Members of Congress got to talk about the bill, they might want to read the bill. The bill says clearly a woman upon whom a partial-birth abortion is performed may not be prosecuted under this section.

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

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Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in opposition to H.R. 1833. In yet another attempt to roll back a woman’s right to choose, to roll back Roe versus Wade, and make all abortions illegal, choice opponents are putting forward legislation which could endanger a woman’s life and her ability to have children in the future.

How odd that the majority party would describe itself as family friendly. Plain and simple, the supporters of this bill feel it is more important to save a doomed fetus than the life of a mother and her ability to have children in the future.

Coreen Costello is the mother of two. The Dole amendment would not have allowed her to use this procedure. Coreen Costello said in front of the Senate in her testimony that she would have taken any child that God gave her, regardless of any handicap. But her child was a child that could not live. Fortunately for Coreen and her family, her doctor was able to save her life and her fertility. She is now expecting her next child.

But what about the women who come after Coreen? What will happen to them, their health, their lives, their families, if this life-saving procedure is outlawed? Congress has no place in their decisions and no place in their tragedies.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. J. JOHNSON].

Mrs. J. JOHNSON of Connecticut. Mr. Speaker, I thank the gentlewoman from Colorado for yielding me time.

If your daughter and son-in-law were faced with the extraordinary tragedy of discovering extreme fetal deformity late in pregnancy or a life threatening development with abortion being the only alternative, would you, would you, each individual Member of this body, want her to have available to her the procedure that was the least threatening to her life and the most protective of her future reproductive capability and the most respectful of the need for the parents to be and their living children to mourn their tragic loss?

Consider the experience of Coreen Costello. Mrs. Costello and her husband hold strong pro-life views, but were suddenly faced with the terrible and painful truth of the problems with her pregnancy. Specialists had determined that the baby had a lethal neurological disorder. Doctors told the Costellos that their daughter would not live, and due to the amniotic fluid pooling in Mrs. Costello’s uterus, as well as the baby’s position, there was a serious risk of a ruptured uterus. Natural birth or an induced labor were impossible. Coreen Costello then considered a caesarean section, but the doctors at her hospital were adamant that the risk to her health and life were simply too great.

She and her husband chose not to risk leaving their other children motherless by opting for a D&E procedure. Because of the safety of the procedure, Coreen is now pregnant again.

What right have we here in Congress to say to this family that you should have risked mom’s life and ignored your doctor’s advice? By what authority do we tell these women that we know more in each of their cases than their own physicians?

Ironic that some of you here are advocating legislation that would assure that managed care plans guarantee physicians the right to tell women all the medical possibilities for treatment, and yet you will legislate here tonight the denial to women of America who face terribly tragic, painful, personal circumstances of the right to have the medical procedure that in truth is safest for them and most protective of their reproductive capability.

If it is the maximum extent possible that there will have more children in their future.

Men of the House of Representatives, women who are Members of Congress,
if it were your daughter, would you not want her life and reproductive hopes and dreams protected? Of course you would. Do not do this shortsighted, mean-spirited, terrible thing to women in our Nation.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Speaker, I honestly believe that a lot of the problems we have today in society stem from the fact that we have no regard for human life. You can call me old-fashioned, but I believe every individual born into this world is special, needed and important.

I ask you, our forefathers shared this philosophy when they wrote in our Declaration of Independence that we are endowed by our Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

I think we need to consider the difference. A doctor performs a painful, cruel, partial abortion one day, and it's accepted. And then the next day, if that same mother gave birth to the same age child and then she killed her child, she would be charged with murder. Only a few hours separates these two acts, but one is considered justified and accepted, even promoted, and the other is considered unjust. There is something wrong with our society today if we continue to justify such an unjust procedure.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I know that there are some Members of Congress who believe they know everything about everything, but maybe once in awhile Members of this body might want to show a little humility. We have heard about pain, we have heard about everything. There is pain in birth. So if you are talking about a fetus that will have no chance to live, and to allow the pregnancy to go to term, you would have a living baby.

We have heard about pain, we have heard about everything. There is pain in birth. So if you are talking about a fetus that will have no chance to live, and to allow the pregnancy to go to term, you would have a living baby.

The college finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community, demonstrating why congressional opinion should never be substituted for professional medical judgment.

Mr. Speaker, I think that states it best. We have people here who are trying to impose their opinion on a medical profession where technical, highly sophisticated, highly trained individuals are asked to perform lifesaving procedures.

It does not make sense. We should stay out of this. We should let a woman make that very difficult choice of what type of procedure she would need to preserve her health and her life, and perhaps have a chance to have a pregnancy that will be able to go to term.

Mr. Speaker, I would urge Members to seriously consider voting strongly against this particular bill, because it does not do what the proponents say.

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

Mr. ROGERS. The gentlewoman from Colorado is recognized for 2½ minutes.

Mrs. SCHROEDER. Mr. Speaker, as a woman, when I am with my doctor, I trust that doctor for my health, and not on their criminal liability. What this bill does is it will focus any doctor on steering away from what they think might be best for the patient, because they could serve 2 years in prison or they could have a criminal record, or on and on and on.

Mr. Speaker, I think every citizen thinks that that is a zone of privacy. This Congress has never interfered in this zone of privacy for family and their physician. Today, for the first time, if this bill becomes law, we will be moving to make an act criminal by a doctor. I much more trust my doctor than I do Members of this body, and I am sorry to say, so I get very angry when I hear some of the things that have been said here.

I have heard people talk about "inhumane, brutal, gruesome, terrible." We have heard the drawings of the drawings were not done by the American College of Gynecologists and Obstetricians. They do not support this bill. They were done, as they say rightfully, by the Catholic Conference of Bishops. Now, they have the right to make their case here, but, please, again, I think most Americans trust their doctors to make those difficult decisions.

We have heard about pain. We have heard about everything. We have heard about everyhting through those hearings. The anesthesiologists who testified said that there is pain in everything. There is pain in birth. So if we are just going to outlaw anything that is painful, we are going to be a very unhappy Congress. They are saying is what happened, some of the advocates were misstating anesthesiology procedures. That is possible, because people here are not doctors.

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But they were not supporting the bill. They were just trying to set the record straight. According to the gentlewoman from Kansas said, these are in very tragic circumstances. Only 0.1 percent of all abortions would be affected by this. These are basically a handful of doctors, and thank goodness a handful of families. But I must say as one who has been there, one who almost lost her life, I would be terribly resentful of this happening, and I never thought it could happen to me, so I say to people, please, please, I know this is a difficult issue.

Anything you cannot explain, anything that is difficult to explain, people hesitate to vote against. But please
be willing to make this explanation. It is much too important for America's families.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada, Mrs. VUCANOVICH.

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

Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born prematurely at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 14 years old.

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

I am not the only one who finds this procedure horrifying. The American Medical Association, the American College of Obstetricians and Gynecologists, the Catholic bishops, and many others have said the same thing.

Mr. Speaker, I strongly urge my colleagues to support H.R. 1833 with the Senate amendments which would ban this brutal procedure known as partial birth abortion.

Mr. Speaker, as you remain silent, you become the accomplice of liars and forgers. I just as-...
with certain exceptions. The author performs the procedure on selected patients 25 through 26 weeks LMP.

The author refers for induction patients falling into the following categories: previous C-section over 22 weeks; obese patients (more than 20 pounds over large frame ideal weight); twins over 22 weeks; patients 26 weeks and over.

**DESCRIPTION OF DILATION AND EXTRACTION METHOD**

Dilation and extraction takes over three days. The surgical assistant observes as follows: dilation; more dilation; real-time ultrasound visualization; version (as needed); intact extraction; fetal skull decompression; removal; cleanup; recovery.

**Day 1—Dilation**

The patient is evaluated with an ultrasound, hemoglobin and Rh. Haddock scales are used to interpret all ultrasound measurements.

In the operating room, the cervix is prepped, anesthetized and dilated to 9-11 mm. Five, six or seven large Dilkon hydroscopic dilators are placed in the cervix. The patient goes home or to a motel overnight.

**Day 2—Dilation**

The patient returns to the operating room where the previous day’s Dilapan are removed. The cervix is scrubbed and anesthetized. Between 15 and 25 Dilapan are placed in the cervical canal. The patient returns home or to a motel overnight.

**Day 3—The Operation**

The patient returns to the operating room where the previous day’s Dilapan are removed. The surgical assistant administers 10 IU Pitocin intramuscularly. The cervix is scrubbed, anesthetized and grasped with a tenaculum. The membranes are ruptured, if they are not already.

The surgical assistant places an ultrasound probe on the patient’s abdomen and scans the fetus, locating the lower extremities. This scan provides the surgeon information about the orientation of the fetus and approximate location of the lower extremities. The transducer is then held in position over the lower extremities.

The surgeon introduces a large grasping forceps, such as a Bierer or Hern, through the vagina and, on the ultrasound, into the neck of the uterus. Based upon his knowledge of fetal orientation, he moves the tip of the instrument carefully towards the fetal lower extremities. When the instrument appears on the screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower extremity. The surgeon then applies firm traction to the instrument causing a version of the fetus (if necessary) and pulls the extremity into the vagina.

By observing the movement of the lower extremity of the fetus on the ultrasound screen, the surgeon is assured that his instrument has not inappropriately grasped a maternal structure.

With the lower extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and the upper extremities. The skin logos are at the internal cervical os. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up.

At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and “hooks” the shoulders of the fetus with the index and ring fingers (palm down). Next he slides the tip of the middle finger along the spine towards the skull while applying traction to the shoulders and lower extremities. The middle finger lifts and pushes the anterior cervical lip out of the way.

While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully and cautiously advances the tip, curved down, along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger. Realising proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he separates the surgeons to enlarge the opening. The surgeon removes the scissors and introduces a suction into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.

The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

**Recovery**

Patients are observed a minimum of 2 hours following surgery. A pad check and vaginal exam are performed immediately after surgery. Patients with minimal bleeding after 20 minutes are encouraged to walk about the building or outside between checks.

**Intravenous antibiotics** are available for the exceptional times they are needed.

**ANESTHESIA**

Local 1% with epinephrine administered intra-cervically is the standard anesthesia. Nitrous-oxide/oxygen analgesic is administered nasally as an adjunct. For the Dilapan insert and Dilapan change, 2cc’s is used in each patient locations around the cervix. For the surgery, 2cc’s is used at 4 equidistant spots.

Carbocaine 1% is substituted for lidocaine for patients who expressed lidocaine sensitivity.

**MEDICATIONS**

All patients not allergic to tetracycline analogues receive doxycycline 200 mg daily for four days. Patients with any history of gonorrhea, chlamydia or pelvic inflammatory disease receive additional doxycycline, 100 mg by mouth q.d. during the subsequent 30 days. Patients allergic to tetracyclines are not given prophylactic antibiotics.

Ergotrate 0.2 mg four times a day is used from 10 days following surgery. Patients with severe cramps with Dilapan are provided Ergotrate 0.2 mg four times a day for 5 days. Patients with a hemoglobin less than 10 g/dl prior to surgery receive packed red blood cell transfusions.

**FOLLOW-UP**

All patients are given 24 hour physician’s number to call in case of a problem or concern.

At least three attempts to contact each patient by phone one week after surgery are made by the office staff.

All patients are asked to return for check-ups three and six weeks after the surgery.

**THIRD TRIMESTER**

The author is aware of one other surgeon who uses a conceptually similar technique.

He adds additional changes of Dilapan and laminaria in the 48 hour dilation period. Coupled with other refinements and a slower operating time, he performs these procedures up to 32 weeks of gestation.

**SUMMARY**

In conclusion, Dilation and Extraction is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia.

Among its disadvantages are that it requires a high degree of surgical skill, and may not be appropriate for a few patients.

**FOOTNOTES**


**March 27, 1996**

Mr. TIAHRT. Mr. Speaker, I believe my colleagues will be interested in Dr. Bimbach’s testimony related to partial birth abortions.

Mr. Chairman, members of the subcommittee, my name is David Bimbach, M.D., and I am presently the director of obstetric anesthesia at St. Luke’s-Roosevelt Hospital Center, a teaching hospital of Columbia University College of Physicians and Surgeons in New York City. I am also president-elect of the Society for Obstetric Anesthesia and Perinatology, the society which represents my subspecialty.

I am here today to take issue with the previous testimony before committees of the Congress that suggests that anesthesia causes fetal demise. I believe that I am qualified to address this issue because I am a practicing obstetric anesthesiologist. Since completing my anesthesiology and obstetric anesthesia training at Harvard University, I have administered anesthesia to more than 5,000 women in labor and anesthesia to over 1,000 women undergoing cesarean section. Although the majority of these cases were at full term gestation, I have provided anesthesia to approximately 200 patients who were carrying fetuses of less than 30 weeks gestation and who needed emergency nonobstetric surgery during pregnancy. These operations have included appendicitis, gall bladder surgeries, numerous orthopedic procedures such as fractured ankles, uterine and ovarian procedures, including malignant tumor removal, breast surgery, neurosurgery, and cardiac surgery.

The anesthetics which I have administered have included general, epidural, spinal, and local. The patients have included healthy as well as very sick pregnant patients. Although
I often use spinal and epidural anesthesia in pregnant patients. I also administer general anesthesia to these patients and, on occasion, have needed to administer huge doses of general anesthesia in order to allow surgeons to perform cardiac surgery or neurosurgery.

In addition, I am also especially qualified to discuss the effects of maternally administered anesthesia on the fetus, because I am one of only a handful of anesthesiologists who has administered anesthesia to a pregnant woman undergoing in-utero fetal surgery, thus allowing me to watch the fetus as I administered general anesthesia to the mother. A review of the experiences that my associates and I had while administering general anesthesia to a mother while a surgeon operated on her unborn fetus was published in the Journal of Clinical Anesthesia vol. 1, 1989, pp. 363–367. In this paper, we suggested that general anesthesia provides several advantages to the fetus who will undergo surgery and then be replaced in the womb to continue to grow until mature enough to be delivered. Safe doses of anesthesia to the mother most certainly did not cause fetal demise when used for these operations.

Despite my extensive experience with providing anesthesia to the living pregnant patient, I have never witnessed a case of fetal demise that could be attributed to an anesthetic. Although some drugs which we administer to the mother may cross the placenta and affect the fetus, in my medical judgment fetal demise is definitely not a consequence of a properly administered anesthetic. In order to cause fetal demise it would be necessary to give the mother dangerous and life-threatening doses of anesthetics. This is not the way we practice anesthesiology in the United States.

Mr. Chairman, I am deeply concerned that the previous congressional testimony and the widespread publicity that has been given to this issue will cause unnecessary fear and anxiety in pregnant patients and may cause some to unnecessarily delay emergency surgery. As an example, several newspapers across the United States have stated that anesthesia causes fetal demise. Because this issue has been allowed to become a “controversy” several of my patients have expressed concerns about anesthesia, having seen newspaper or heard radio or television coverage of this issue. Evidence that patients are still receiving misinformation regarding the fetal effects of maternally administered anesthesia can be seen by review of an article that a pregnant patient recently brought with her to the labor and delivery floor. In last month’s edition of Marie Claire, a magazine which many of my pregnant patients read, an article about partial birth abortion states: “The mother is put under general anesthesia which reaches the fetus through the placenta. By the time the cervix is sufficiently dilated, the fetus has overdosed on the anesthetic and is brain-dead.” These incorrect statements continue to find their way into newspapers and magazines around the country. Despite the previous testimony, many persons have yet to see the reality that states, in no uncertain terms, that anesthesia when used properly does not harm the fetus. This supposed controversy regarding the effects of anesthesia on the fetus must be finally and definitively put to rest.

In this complex issue, I believe that it is necessary to comment on three of the statements which have recently been made to the Congress.

First, Dr. James McMahon, now deceased, testified that anesthesia causes neurologic fetal demise.

Second, Dr. Lewis Koplick supported Dr. McMahon and stated: “I am certain that anyone who would call Dr. McMahon a liar is speaking from ignorance of abortions in later pregnancy and of Dr. McMahon’s technique and integrity.”

Third, Dr. Mary Campbell of Planned Parenthood has addressed this issue by writing the following: “Though these doses are high, the incremental administration of the drugs minimizes the probability of negative outcomes for the mother. In the fetus these dosage levels may indeed cause fetal demise,—in a fetus weakened by its own developmental anomalies.”

My responses to these statements are as follows:

One, there is absolutely no scientific or clinical evidence that a properly administered maternal anesthetic causes fetal demise. To the contrary, there are hundreds of scientific articles which demonstrate the fetal safety of currently used anesthetics.

Two, Dr. Koplick has stated that the “massive” doses used by Dr. McMahon are responsible for fetal demise. This again, is incorrect and there is no scientific or clinical data to support this allegation. I have personally administered “massive” doses of narcotics to intubated critically ill pregnant patients who are being treated in an intensive care unit. I am pleased to say that the fetuses were born alive and did well.

Three, Dr. Campbell has described the narcotic D&X, a mnemonic Dr. McMahon had used during his D&X procedures: It includes the administration of Midazolam (10–40 mg) and Fentanyl (900–2,500 µg). Although there is no evidence that this dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death. These doses are far in excess of any anesthetic that would be used by an anesthesiologist and even if they are incrementally given over a 2 to 3 hour period these doses would in all probability cause enough respiratory depression of the mother, to necessitate intubation and/or assisted respiratory support. Dr. McMahon cannot be not be questioned regarding his “heavy-handed” anesthetic practice. I am unable to explain why we would willingly administer such huge amounts of drugs if he did indeed administer 2,500 µg of fentanyl and 40 mg of midazolam to a patient in a clinic, without an anesthesiologist present, he has definitely placing the mother’s life at great risk.

In conclusion, I would like to say that I believe that I have a responsibility as a practicing obstetric anesthesiologist to refute any and all testimony that suggests that maternally administered anesthesia causes fetal demise. It is my opinion that in order to achieve that goal one would need to administer such huge doses of anesthetic to the mother as to place her life at jeopardy. Pregnant women must get the message that should they need anesthesia for surgery or analgesia for labor, they may do so without worrying about the effects on their unborn child.

Thank you for your attention. I am happy to respond to your questions.

Mr. VOLKMER. Mr. Speaker, I submit the following material for inclusion in the RECORD: [From the American Medical News, Nov. 20, 1995]

OUTLAWING ABORTION METHOD: VETO-PROOF MAJORITY IN HOUSE VOTES TO PROHIBIT LATE-TERM PROCEDURE

By Diane Gianelli

Washington.—His strategy was simple: Find an abortion procedure that almost anyone would describe as “gruesome,” and force the opposition to defend it.

When Rep. Charles Canady (R. Fla.) learned about “partial birth” abortions, he was set.

He and other anti-abortion lawmakers launched a congressional campaign to outlaw the procedure.

Following a contentious and emotional debate, the bill passed by an overwhelming—and veto-proof—margin: 288-135. It marks the first time the House of Representatives has voted to forbid a method of abortion. And although the November elections yielded a “pro-life” infusion in both the House and Senate, massive crossover voting occurred, with a significant number of “pro-choice” representatives voting to pass the measure.

The controversial procedure, done in second- and third-trimester pregnancies, involves an abortion in which the provider, according to the bill, “partially vaginally delivers the fetus” before ending the pregnancy and completing the delivery.”

“Partial birth” abortions, also called “intact D&E” (for dilation and evacuation), or “D&P” (for dilation and partial vacuum by suction) is performed by only a handful of U.S. physicians, including Martin Haskell, MD, of Dayton, Ohio, and, until his recent death, James T. McMahon, MD of the Los Angeles area. Dr. McMahon said in a 1993 AMNews interview that he had trained about a half-dozen physicians to do the procedure.

The procedure usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The surgeon forces scissors into the base of the skull, spreads them to enlarge the opening, and uses suction to remove the brain.

The procedure gained notoriety two years ago, when abortion opponents started running newspaper ads that described and illustrated the method. Their goal was to defeat an abortion rights bill then before Congress on grounds it was so extreme that states would have no ability to restrict even late-term abortions on viable fetuses. The bill went nowhere, but strong reaction to the campaign prompted anti-abortion activists to try it again.

They drafted a bill that would ban the procedure, after considering a number of other options. An Ohio law passed earlier this year, for instance, bans “brain suction” abortions, except when all other methods would pose a greater risk to the pregnant woman. It has been enjoined pending a challenge.

MIXED FEELINGS IN MEDICINE

The procedure is controversial in the medical community. On the one hand, organized medicine bristles at the notion of Congress attempting to ban or regulate abortion procedures or practices. On the other hand, even some in the abortion provider community find the procedure difficult to defend.

“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 text on abortion standards and procedures. Dr. Hern specializes in late-term procedures.

He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine and because he thinks this signifies just the beginning of a...
series of legislative attempts to chip away at abortion rights. But of the procedure in question he says, "You really can't defend it. I'm not going to tell somebody else that they should do this procedure. But I'm not going to do it either.

Dr. Hern's concerns center on claims that the procedure is performed on pregnant women, and that without this procedure women would have died. "I would dispute any statement that this is true," he added.

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.

Patricia Smith, MD, director of medical education, Department of Obstetrics and Gynecology at Mount Sinai Hospital in Chicago, added two more concerns: cervical incompetence in subsequent pregnancies caused by three days of forcible dilatation of the cervix and uterine rupture caused by rotating the fetus within the womb.

"There are absolutely no obstetrical situations encountered in this country which require a partial delivery of a human being and are destroyed to preserve the life of the mother," she said.

Dr. Smith wrote in a letter to Canady.

There was its defenders. The procedure is a "well-recognized and safe technique by those who provide abortion care," said Lewis H. Koplik, MD, an Albuquerque, N.M., abortion provider in a statement that appeared in the Congressional Record.

"The risk of severe cervical laceration and the possibility of damage to the uterine artery by a shrapnel fragment of calvarium is virtually eliminated. Without the release of thromboplastic material from the fetal central nervous system into the maternal circulation, coagulation problems, DIC [disseminated intravascular coagulation], does not occur. In skilled hands, uterine perforation is almost unknown," Dr. Koplik said.

Bruce Ferguson, MD, another Albuquerque abortion provider, said in a letter released to Congress that the ban could impact physicians performing late-term abortions by other techniques. He noted that there were "many abortions in which a portion of the fetus is sacrificed in order to save the mother." He also pointed out that there is no clarification of what is meant by "a living fetus." Does the doctor have to do some kind of electrocardiogram and brain wave to prove their fetus was not living before he allows a foot or hand to pass through the cervix?

Apart from legal and medical concerns, the bill's focus on late-term abortion also raises troubling ethical issues. In fact, the whole strategy, according to Rep. Chris Smith (R, N.J.), is to force citizens and elected officials to move beyond a philosophical discussion of "a woman's right to choose," and focus on the reality of abortion. And, he said, to expouse those who support "abortion on demand" as "the real extremists."

Another point of contention is the reason the procedure is performed. During the Nov. 1 debate in the House, opponents of the bill repeatedly stated that the procedure was used only to save the life of the mother or when the fetus had serious anomalies.

Rep. Vic Fazio (D, Calif.) said, "Despite the other side's spin doctors—real doctors know that the late-term abortions this bill seeks to ban—they're done only in desperate cases where there is no better alternative to save the woman, and, if possible, preserve her ability to have children."

Dr. Hernandez could not imagine a circumstance in which this procedure would be used. He did acknowledge that some doctors use skull-decompression techniques, but he added that he had never used them. He said that if the fetus had been induced and the fetus would not purposefully be rotated into a breech position.

Even some physicians who specialize in this procedure do not claim the majority are performed to save the life of the pregnant woman.

In his 1993 interview with AMNews, Dr. Haskell conceded that 80 percent of his late-term abortions were elective. Dr. McMahon said he would not do an elective abortion after 20 weeks if he released the House Judicary Committee, "depression" was listed most often as the reason for late-term abortions, with maternal indications, "safety" listed nine times under fetal indications.

The accuracy of the article was challenged, two months after Dr. Haskell and the National Abortion Federation, who told Congress the doctors were quoted "out of context." AM News Editor Barbara Bolen defended the article, saying AM News "had full documentation of the interviews, including tape recordings and transcripts."

Bolen gave the committee a transcript of the following, in which Dr. Haskell was asked if the fetus was dead before the end of the procedure.

"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 stretched, sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes rupture."

"So in my case, I would say probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not," said Dr. Haskell.

In a letter to Congress before his death, Dr. McMahon stated that medications given to the mother "institute a state of consciousness" in the fetus, and "there is neurological fetal demise."

But Watson Bowes, MD, a maternal-fetus specialist at the University of North Carolina, Chapel Hill, said in a letter to Canady that Dr. McMahon's statement "suggests a lack of understanding of maternal-fetal pharmacology. ** * Having cared for pregnant women for who one reason or another required surgical procedures in the second trimester, Dr. Bowes became devotedly sedated or anesthetized for the procedures, and the fetuses did not die."

Next move in the Senate

At AM News press time, the Senate was scheduled to debate the bill. Opponents were lining up to tack on amendments, hoping to get the measure or send it back to a committee where it could be watered down or rejected.

In a statement about the bill, President Clinton did not use the word "veto." But he said he "cannot support" a bill that did not provide an exception to protect the life and health of the mother. Senate opponents of the bill say they will focus on the fact that it does not provide such an exception.

The bill does provide an alternative defense to a physician who provides this type of abortion if he or she reasonably believes the procedure was necessary to save the life of the mother and no other method would suffice.

But Rep. Patricia Schroeder (D, Colo.) says that is not sufficient. "That means that it is available to the doctor after the handguns have snapped around his or her wrists, bond has been posted, and the criminal trial is under way," she said during the House debate.

Canady disagrees. "No physician is going to be prosecuted and convicted under this bill," she said. "It is solely necessary to save the life of the mother."

The physician community is split on the bill. The California Medical Assn., which says it does not advocate elective abortions in later pregnancy, opposes it as "an unwarranted intrusion into the doctor-patient relationship."

The American College of Obstetricians and Gynecologists also opposes it on grounds it would "supersede the medical judgment of trained physicians and would criminalize medical procedures that may be necessary to save the life of a woman," said spokeswoman Alice Kirkman.

AMA has chosen to take no position on the bill, although its Council on Legislation unanimously recommended support. A letter to House Internette Nance noted that although the board considered seriously the council's recommendations, it ultimately decided to take no position, because it had concerns about some of the bill's language and about Congress legislating medical procedures.

Meanwhile, each side in the abortion debate is calling news conferences to announce how necessary or how ominous the bill is. Opponents highlight poignant stories of women who have elected to terminate want to be prosecuted and convicted under this bill.

Rep. Nita Lowey (D, N.Y.) told the story of Claudia Ames, a Santa Monica woman who had elected to terminate. "She had saved her life and saved her family."

Ames told Lowey that six months into her pregnancy, she discovered the child suffered from severe anomalies that made its survival impossible and placed Ames' life at risk.

The bill's backers were "attempting to exploit one of the greatest tragedies any family can ever face by linking it to the abortion controversy," Dr. Haskell wrote in a letter to Congress before his death.

Ames' case is frequently quoted as testimony of a nurse. Brenda Shafer, RN, who witnessed three of these procedures in Dr. Haskell's clinic and called it "the most horrifying experience of my life."

"The baby's body was moving. His little fingers were clamping together. He was kicking his feet." Afterwards, she said, "I threw the baby in a trash can...I saw the baby move. "I still have nightmares about what I saw."

Dr. Haskell says if the bill becomes law, he expects it to have "virtually no significance" clinically. But on a political level, "it is very, very significant."

"This bill's all about politics," he said, "it's not about medicine."

Mrs. VUCANOVIĆ. Mr. Speaker, I submit the following material for inclusion in the RECORD:

[From Cincinnati Medicine, Fall 1993]

2ND TRIMESTER ABORTION

(An interview with W. Martin Haskell, MD)

Last summer, American Medical News ran a story on abortion specialists. Included was W. Martin Haskell, MD, a Cincinnati physician who introduced the D&X procedure for second trimester abortions. The Academy received several calls requesting information about D&X. The following interview provides an overview.

Q: What motivated you to become an abortion specialist?

A: I stumbled into it by accident. I did an internship in anesthesia. I worked for a year in general practice by using graphic pictures. Two years in general surgery, then switched into family practice to get board certified. My intentions at that time were to go into emergency medicine. I discovered there was a patient who had died. I realized there was an abundance of really good surgeons here in Cincinnati. I didn't feel I'd
make much of a contribution. I'd be just another good surgeon. While I was in family practice, I got a part-time job in the Women's Center. Over the course of several months, I learned that things there could run a lot better, with a much more professional level of service—not necessarily in terms of medical care—in terms of counseling, the physical facility, patient flow, and in the quality of people who provided support services. The typical abortion patient spends less than ten minutes with the physician who performs the procedure. Yet, that patient could be in the facility for three hours. When I talked to other physicians whose patients were referred here, I saw problems that were so pervasive that there was an opportunity to improve overall quality of care, and make a contribution. I own the center now.

Q: Back in 1979 when you were making these decisions, did you consider yourself prochoice?
A: I've never been an activist. I've always felt that no matter what the issue, you prove your convictions by your hard work—not by yelling and screaming.

Q: How do they handle threats against you?
A: Not directly. Pro-life activist Randall Terry recently said to me that he was going to do everything within his power to have me tried as a criminal if I were ever arrested.

Q: A recent American Medical News article stated that the medical community hadn't really established a point of fetal viability. Why not?
A: Probably because it can't be established with uniform certainty. Biological systems are highly variable. The generally accepted point of fetal viability is around 24-26 weeks. But you can't take a given point in fetal development and apply that 100 percent of the time. It happens that way, but if you look at premature deliveries and survival percentages at different weeks of gestation, you'll get 24-week fetuses with some survival rate. The fact that you get some survivors demonstrates the difficulty in defining a point.

Q: Most women who get abortions and pregnancies during the first trimester. Who is the typical second-trimester patient?
A: I don't know that there is a typical second-trimester abortion. But if you look at the span of abortions (most babies are between the ages of 19 and 29) they tend to be younger. Some are older. The typical thing that some women notice is that they have never realized they were pregnant because they were continuing to bleed during the pregnancy. The other thing we see with older women is these complications of Down's Syndrome. These are being diagnosed much earlier now than they used to be. We're seeing a lot of genetic diagnoses with ultrasonic and amniocentesis at 17-18 weeks instead of 22-24 weeks. With the teenagers, anybody who has ever worked with or had teenagers can appreciate how unpredictable they are. They have adult bodies, but a lot of time they don't have adult minds. So their reaction to problems tends to be much more emotional than an adult's might be. It's a question of maturity. So even though they may have been educated about all kinds of issues in reproductive health, when a teenager becomes pregnant, depending upon her relationship with her family, the amount of peer support she has—every one is a highly-individual case—sometimes they delay until they can no longer delay. Yet, if they did abortions, their limit was 18 weeks. I don't know about University. What I saw here in my practice, because we did D & Es, was that we had patients who changed their minds several times. So we learned the skills. The later we did them, the more we saw patients who needed them still later. But I just kept doing D & Es because we believed that it was appropriate to do until 24 weeks. But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D & Es were very, very easy. So I asked myself why can't they all happen this way. You see the easy ones would have a foot length presentation, the heart beat, the fetus is high, the baby is big enough to pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy. At first, I would teach around the room, and then I'd just have to lower the extremites blindly with the tip of my instrument. I'd get it right about 30-50 percent of the time. Then I said, "Well gee, if I just put a finger around the head, I'll feel it pretty much and I wouldn't have to feel around for it. I did that and sure enough, I found it 99 percent of the time. Kind of serendipity.

Q: The fees for the fetus feel—
A: Neurological pain and perception of pain are not the same. Abortion stimulates fibers, but the perception of pain, the memory of the pain, the dread are not there. I'm not an expert, but my understanding is that fetal development is insufficient for consciousness. It's a lot like pets. We like to think they think like we do. We ascribe human-like feelings to them, but they are not capable of the same self-awareness we have. Even with the same with fetuses. It's natural to project what we feel for babies to a 24-week old fetus.

[From the American Medical News, Jan. 1, 1996]  
ANESTHETIST'S QUESTIONS CLAIMS IN ABORTION DEBATE  
(By Diane M. Gianelli)  
WASHINGTON—When he saw an article in the St. Louis Post-Dispatch that claimed anesthetists caused fetal death in some late-term abortion procedures, David Birnbach, MD, was "shocked." "This is crazy," he said.

"Everyday we have pregnant patients who get anesthesia—women who break their ankles, need knee surgery, have appendectomies, gallbladder removals, breast biopsies, and so on. Anesthetics done safely by an anesthetologist do not do harm to the mother, to the baby," he said.

The anesthesia-causes-fetal-death claim was made by one of the two U.S. physicians who specialized in a particular type of late-term abortion that opponents call "partial birth" abortions. The contention has been repeated by other proponents of the procedure, who refer to it as "intact D&E" (for dilation and evacuation) or "D&X" (dilation and extraction).

Medical experts contend the claim is scientifically unsound and irresponsible, say unnecessarily worrying pregnant women who need anesthesia. But while some are now qualifying their assertion that anesthesia induces fetal death, they are not backing away from it.

When Rep. Charles T. Canady (R, Fla.) introduced a bill to ban the procedure, James T. McMahon, MD, a Los Angeles area family physician who specialized in this procedure before his recent death, responded. Dr. McMahon wrote that the anesthesia given to the mother before the abortion causes "neurological fetal demise." The bill to ban the procedure, passed late last year by both the House and the Senate, was one in a series of bills that initially vaginally delivers a living fetus before killing the fetus and completing the delivery.

The procedure was recently banned in Ohio, where its main practitioner, Martin Haskell, MD, lives. But a federal
In the very high-end doses she mentioned, he said, "the fetus dies from an overdose of anesthesia given to the mother intravenously."

The distinction of when fetal death occurs is critical, because the bill would ban procedures in which the fetus was killed after being partially delivered alive through the birth canal, if it could be proved that the fetuses died inside the womb—from anesthe-sia or any other cause—the abortion would not fall under the proposed law.

After reading the anesthesia-kills-fetuses claims in the Loeb paper, the American Society of Anesthesiologists issued a press release denouncing it. And in testimony before the Senate, Norg Ellisson, MD, president of the society, said he did not take Dr. McMahon's statements "entirely inaccurate."

He added that he was "deeply concerned" about publicity given to Dr. McMahon's claims "may cause pregnant women to delay necessary and perhaps even life-saving medical procedures, totally unrel-ated to the alleged anesthetic dangers, due to misinformation regarding the effect of anesthetics on the fetus."

In fact, the Society of the American College of Obstetricians and Gynecologists, which endorses the Society of Anesthesiologists' statement, does not believe in the claims made by Dr. McMahon. The Society of Anesthesiologists issued a press release titled, "In our medical judgment, it would be unethical for an anesthetist to anesthetize the mother to such a degree as to place her own health in serious jeopardy."

Robert J. White, MD, PhD, professor of anesthesiology at Case Western Reserve University in Cleveland, testified on the topic before Congress last summer. "There are published sci-entific studies that demonstrate that by the 20th week, many of the neuronal pathways that sense pain have already started to de-velop," he said. "By the 24th week, the connections of the cortex and the thalamus are well under way. There is no way to argue with impunity that pain reception is not possible." Michael J. Murray, MD, an anesthesiol-ogist at the Mayo Clinic in Rochester, Minn., president of the Minnesota Medical Assn., agrees.

In fact, he said, physicians doing fetal sur-gery inject narcotic fentanyl and muscle re-laxants into the umbilical cord to provide pain relief, even though the mother is al-ready anesthetized."What we get from the mom is not enough," he added. "We have studied patients in the past who have been opioid induced had much better outcomes than those who were just given muscle relaxants."

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The bottom line for many anesthesiol-ogists, regardless of their position on abor-tion: Women should not be concerned about questions claims thrown out in the heat of the debate. "Women who need anesthesia for emer-gency surgery during pregnancy or who re-quest analgesia for labor should be hearted that both they and their babies will do just fine," Dr. Birnbach said.

Dr. CANADY of Florida. Mr. Speaker, I submit the following material for inclusion in the Record.

March 27, 1996.

THE SMITH-DOLE SENATE AMENDMENT PROTECTS THE LIFE OF THE MOTHER

DEAR COLLEAGUE: This is in response to a March 27 "Dear Colleague" from Reps. Nita Loewy and Nancy J. Johnson, which ran under the very misleading headline, "The Dole Amendment Endangers Women's Lives."

As initially returned in his amendment. In the very high-end doses she mentioned, he said, "The bottom line for many anesthesiologists, regardless of their position on abortion: Women should not be concerned about questions claims thrown out in the heat of the debate. "Women who need anesthesia for emergency surgery during pregnancy or who request analgesia for labor should be hearted that both they and their babies will do just fine," Dr. Birnbach said.

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As initially returned in his amendment. In the very high-end doses she mentioned, he said, "The bottom line for many anesthesiologists, regardless of their position on abortion: Women should not be concerned about questions claims thrown out in the heat of the debate. "Women who need anesthesia for emergency surgery during pregnancy or who request analgesia for labor should be hearted that both they and their babies will do just fine," Dr. Birnbach said.

Mr. CANADY of Florida. Mr. Speaker, I submit the following material for inclusion in the Record.

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Mr. CANADY of Florida. Mr. Speaker, I submit the following material for inclusion in the Record.

March 27, 1996.
with the uncomfortable fact—which is amply documented in the writings and validated statements of partial-birth abortion practitioners—that the overwhelming majority of partial-birth abortions have nothing to do with life-threatening complications of pregnancy, but are (in the words of Dr. Martin Haskell) "purely elective."

Sincerely,

Henry J. Hyde, Chairman.

**Fetal Death** or Dangerous Deception? The Effects of Anesthesia During a Partial-Birth Abortion

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated by a few exponents:

Abortion Advocates

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the "anesthesia myth" is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers" on KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman said: "The fetus usually dies from the anesthetic, not from the procedure. There is no such thing as a 'partial-birth.' That's, that's a term made up by people like these anti-choice folks that you had..."

The other side grossly distorted the procedure. There is no such thing as a "partial-birth." That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus–I mean, it is a termination of the fetal life, there's no question about that. But, feticus is, before the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

Dr. Mary Campbell of Planned Parenthood

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833, Medical Questions and Answers," which includes this statement:

"Q: Who does the fetus die?

A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which can be impaired by the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb."

The New York Daily News

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the mother kills the fetus and brings the procedure to a close. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

The St. Louis Post-Dispatch

"The fetus usually dies from the anesthesia administered to the mother before the procedure begins," wrote in mid-November that, if one relied on 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."

The Truth

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia." (American Medical News, Jan. 1, 1996)

"I am deeply concerned, moreover, that widespread publicity... may cause pregnant women to delay or perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effects of anesthesia on the fetus." (Dr. Norig Ellison, Nov. 17, 1995, testimony before Senate Judiciary Committee)

"Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intra-venously, will provide no-to-little analgesia [relief from pain] to the fetus." (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Chairman George M. Salmon, Speaker, I submit the following material for inclusion in the RECORD:

American Medical News, Published by the AMA, Chicago, IL, July 11, 1995.


Dear Representative Canady: We have received your July 7 letter outlining allegations of inaccuracies in a July 5, 1995, story in American Medical News, "Shock-tactic ads target late-term abortion procedure." You noted that in public testimony before your committee, AMNews is alleged to have quoted physicians out of context. You also noted that one such physician submitted testimony contending that AMNews misrepresented his statements. We appreciate your offer of the opportunity to respond to these accusations, which now are part of the permanent subcommittee record.

AMNews stands behind the accuracy of the report cited in the testimony. The report was complete, fair, and balanced. The comments made by the physicians interviewed and quoted were reported accurately and in context. The report was based on extensive research and interviews with experts on both sides of the abortion debate, including interviews with two physicians who perform the procedure in question.

We have full documentation of these interviews, including audio cassettes and transcripts. Enclosed is a transcript of the context quotes that relate to the allegations of inaccuracies made against AMNews. Let me note that in the two years since publication of our story, neither the organization nor the physician who complained about the story to your committee has contacted the reporter or any editor at AMNews to complain about it. AMNews has a longstanding reputation for balance and accuracy in reporting, including reporting on abortion, an issue that is as divisive within medicine as it is within society in general. We believe that American Medical News has handled the story in question correctly, and..."

"Thank you for your letter and the opportunity to clarify this matter."

Respectfully yours,

Barbara Bolsen, Editor.
20% are for genetic reasons. And the other 80% are purely elective.

[From the American Medical News, July 5, 1996]

**SHOCK-TACTIC ADS TARGET LATE-TERM ABORTION PROCEDURE**

A letter to the Star-Tribune said the pro-choice voters and elected officials that a proposed federal abortion-rights bill is so extreme that states would have no authority to limit abortions—even on potentially viable fetuses.

**FOES HOPE CAMPAIGN WILL SINK FEDERAL ABORTION RIGHTS LEGISLATION**

Barbara Radford of the National Abortion Federation denounced the ad campaign as disingenuous, saying its "real agenda is to outlaw virtually all abortions, not just late-term ones." But she acknowledged it is having an impact, reporting scores of calls from concerned voters and others who have seen the ads and brochures and are asking pointed questions about the procedure depicted.

**WASHINGTON—In an attempt to derail an abortion-rights bill maneuvering toward a congressional showdown, opponents have launched a full-scale campaign against late-term abortions.**

The centerpiece of the effort are newspaper advertisements and brochures that graphically illustrate a technique used in some second- and third-trimester abortions. A handful of newspapers have run the ads so far, and the National Right to Life Committee has distributed 4 million of the brochures, which were inserted into about a dozen other papers.

By depicting a procedure expected to make most readers squeamish, campaign sponsors hope to convince voters and elected officials that a proposed federal abortion-rights bill is so extreme that states would have no authority to limit abortions—even on potentially viable fetuses.

**CAMPAIGN'S IMPACT DEBATED**

A letter to the Star-Tribune said the pro-choice voters and elected officials that a proposed federal abortion-rights bill is so extreme that states would have no authority to limit abortions—even on potentially viable fetuses.

**ACCURACY QUESTIONED**

Some abortion-rights advocates have questioned the ad's accuracy. A letter to the Star-Tribune said the procedure shown is "only performed after fetal death, and no autopsy is necessary or to save the life of the mother." And the Morrisville, Vt., Transcript, which said in an editorial that it allowed the brochure to be inserted only because it feared legal action if it refused, quoted the abortion federation as providing similar information.

"The fetus is dead 24 hours before the pictorial procedure is undertaken," the editorial stated. But Dr. Haskell and another doctor who routinely use the procedure for late-term abortions told ANews that the majority of fetuses aborted this way are alive until the end of the procedure. Dr. Haskell said the drawing was accurate "from a technical point of view." But he took issue with the implication that the fetuses were "being tortured."

Radford also acknowledged that the information her group was quoted as providing was inaccurate. She has since sent a letter to the federation expressing concerns about the accuracy of its statements about the procedure. And she said the information the group was using was "citing an aberration and stressed that the vast majority of abortions occur within the first trimester. She also said that late abortions usually are done for reasons of fetal abnormality or maternal health.

"Douglas J. Johnson, the director of the Right to Life Committee called that suggestion "blatantly false. The abortion practitioners themselves will admit the majority of their late-term abortions are elective," he said. "People like Dr. Haskell are just trying to teach others how to do it more efficiently."

**ABORTION METHODS**

According to the Alan Guttmacher Institute, a research group affiliated with Planned Parenthood, about 10% of the estimated 1.6 million abortions done each year are in the second and third trimesters.

**NUMBERS GAME**

Accurate figures on second- and third-trimester abortions are elusive because a number of states do not require doctors to report abortion statistics. For example, one-third of all abortions are said to occur in California, but the state has no reporting requirements. The Alan Guttmacher Institute estimates there were nearly 168,000 second- and third-trimester abortions in 1988, the last year for which figures are available. It does have more information in the 16- to 20-week period, with 10,600 at week 21 and beyond, the institute says. Estimates were based on national age-specific birth rates, as opposed to last menstrual period.

There is particular debate over the number of third-trimester abortions. Former Surgeon General C. Everett Koop, who estimated in 1984 that 4,000 are performed annually. The abortion federation puts the number at about 500. Dr. McConnell says that probably Koop's numbers are more correct. Dr. Haskell says he performs abortions "up until about 25 weeks" gestation, most of them elective. Dr. McMahon's office does abortions through all 40 weeks of pregnancy, but he won't do an elective procedure after 26 weeks. About 80% of those he does after 21 weeks are non-elective, he says.

**MIXED FEELINGS**

Dr. McMahon admits having mixed feelings about the procedure in which he has chosen to specialize. "I have two positions, that may be internally inconsistent and that's probably why I fight with this all the time," he said. "I do have moral scruples. And if I see a case that's later, like after 20 weeks, where it frankly is a child to me, I really agonize over it. Because the potential is so imminently there. It's not too bad that this child couldn't be adopted." But Dr. Haskell and another doctor who use this method to do abortions say the procedure has helped them do more dangerous procedures that are far less risky to the mother.

"On the other hand, I have another position," Dr. McMahon says. "I think it's important to distinguish the choice and the hierarchy of questions, and that is: Who owns the child? It's got to be the mother." But Dr. McMahon says he doesn't want to "hold patients hostage to my technical skill. I can say, 'No, I won't do that,' and then they're stuck with either some criminal solution or some other desperate maneuver." Dr. Haskell, however, says whatever qualms he has about third-trimester abortions are "only for technical reasons, not for emotional reasons of fetal development.”

"I think it's important to distinguish the two," he says, adding that his cutoff point is "with viability" in Roe v. Wade, the Supreme Court decision that legalized abortion. The decision said that point usually occurred at 28 weeks, but may occur earlier, even at 24 weeks. Viability is generally accepted to be "somewhere between 25 and 26 weeks," Dr. Haskell said. "It just depends on who you talk to."

"We don't have a viability law in Ohio. In New York they have a 24-week limitation. That's how Dr. Hayat got in trouble. If someone tells me I have to use 22 weeks, that's fine. I'm not a trailblazer or activist trying to constantly press the limits."

**CAMPAIGN'S IMPACT DEBATED**

Whether the ads and brochures will have the full impact abortion opponents intend is yet to be seen.
Congress has yet to schedule a final showdown on the bill. Although it has already passed through the necessary committees, supporters are reluctant to move it for a full House vote and Senate vote until they are sure they can win.

In fact, House Speaker Tom Foley (D, Wash.) acknowledged (Feb. 18) that the bill will now have to bring a vote under a "closed rule" procedure, which would prohibit consideration of amendments.

But opponents are lobbying heavily against Foley's plan. Among the amendments they wish to offer is one that would allow, but not require, states to restrict abortion—except to save the mother's life—after 24 weeks.

Mr. SMITH of New Jersey, Mr. Speaker, I submit the following material for inclusion in the RECORD:

PARTIAL-BIRTH ABORTIONS: BEHIND THE MISINFORMATION

(By Douglas L. Johnson, NRLC Federal Legislative Director)

NOTE: The Partial-Birth Abortion Ban Act (HR 1833) has been approved in slightly different versions by the U.S. House of Representatives (Nov. 1, 1995, on a vote of 288-149) and by the U.S. Senate (Dec. 7, 1995, on a vote of 58-42). It is important to note that the House will approve the Senate-passed bill on March 27 and send it to President Clinton soon thereafter. President Clinton will veto the bill because he had shared the view of many that it would represent an erosion of a woman's right to choose." White House Press Secretary Mike McCurry said on December 20, 1995.

Opponents of the bill have disseminated an extraordinary amount of misinformation regarding the partial-birth abortion procedure and the procedures of similar sort that are contradicted by the past writings and recorded statements of doctors who have performed thousands of partial-birth abortions. Some of this misinformation has been adopted and widely disseminated by some journalists, columnists, editorialists, and law makers. This factsheet addresses some of these issues.

WHAT IS THE PARTIAL-BIRTH ABORTION BAN ACT (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) is a bill that would ban the partial-birth abortion procedure, except in cases (if there are any) in which the procedure is necessary to save the life of a mother.

The bill specifically defines a "partial-birth abortion" as "an abortion in which the person performing the abortion vaginally delivers a living fetus before killing the fetus and completing the delivery." The bill specifically defines 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 an abortion.

The bill is aimed at a procedure that has often been utilized by Dr. Martin Haskell of Dayton, Ohio; by the late Dr. James McMahon of Los Angeles; and by others. This procedure is generally used beginning at 20 weeks (4½ months) into the pregnancy, is "routinely" used to 5½ months, and has often been used even during the final three months of pregnancy.

The Los Angeles Times accurately and succinctly described this abortion method in a June 16, 1995 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 inserted through the opening of the fetal skull, and a suction catheter is inserted through the opening and the brain is removed.

In 1992, Dr. Haskell wrote a paper ("Dilation and Extraction for Late Second Trimester Abortion") that described in detail, step-by-step, how to perform the procedure. Anything was considered, and he presented the truth behind the conflicting claims regarding partial-birth abortions would do well to start by reading Dr. Haskell's paper, and the transcripts of the congressional hearings that we highlight below. Dr. Haskell gave in 1993 to the publications American Medical News (the official AMA newspaper) and Cincinnati Medicine.

Regarding the Smith-Dole Amendment that would "spell out in the statute for the first time the circumstances under which the life-of-the-mother exception would apply", Dr. Haskell wrote, "Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia."

Dr. Haskell also wrote that he performed the procedure through 26 weeks (six months) "on selected patients." [p.28]

Dr. James McMahon used essentially the same procedure to a much later point—even into the ninth month. (Dr. McMahon died of cancer on Oct. 28, 1995.)

In a letter to Congressman Charles Canady dated March 19, 1996, Dr. William Rashbaum of New York City wrote that he has performed the procedure "routinely since 1979. This procedure was performed only in cases of later gestational age."

DOES THE BILL CONTAIN AN EXCEPTION FOR LIFE-OF-THE-MOTHER CASES?

As originally passed by the House on November 1, 1995, HR 1833 contained an "affirmative defense" provision, which would have shielded an abortionist from civil and criminal liability if he showed that he had "reasonably believed" the partial-birth abortion procedure was necessary to save the life of a mother.

Similar "affirmative defense" exceptions are found in literally dozens of federal criminal laws. Nevertheless, after bill opponents distorted this provision, NRLC endorsed and the Senate unanimously adopted the Smith-Dole Amendment (HR 1833) which provides that the ban "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." (In addition, of course, the government could not be convicted of a violation of the law unless the government proves that the abortionist could not be convicted of a violation of the law.

ABBREVIATION?

"Partial-birth abortion" is defined as "an abortion in which the person performing the abortion partially..."

"Partial-birth abortion" as "an abortion in which the person performing the abortion vaginally delivers a living fetus before killing the fetus and completes the delivery..."

For example: Prior to enactment of the Hyde Amendment in 1976, the federal Medicaid program paid for 300,000 "health" or "medically necessary" abortions a year; the term was construed to cover any physician-performed abortion. The law limited reimbursement to "life" cases, which have been on the order of 100 to 200 annually. In other words, the ratio of "health" cases to "life" cases, under Medicaid, was more than 1,000 to 1.

HOW MANY PARTIAL-BIRTH ABORTIONS ARE PERFORMED?

Nobody knows. Pro-abortion groups have claimed that "only" 450 such procedures are performed every year. But the combined practices of Dr. Martin Haskell and the late Dr. James McMahon alone would have approximated that figure.

In a letter to Congressman Canady dated March 19, 1996, New York doctor William K. Rashbaum wrote that he had performed the procedure that would have prohibited by HR 1833 "routinely since 1979. This procedure is performed only in cases of later gestational age."

Moreover, 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."
It is impossible to know how many other abortionists have adopted the procedure, without choosing to write articles or grant interviews on the subject. Both Haskell and McMahon are trying to deflect attention from other abortionists of the merits of the procedure. That is why Haskell wrote his 1992 instructional paper. For years, Mr. McMahon was documented as the leader in the Cedar Sinai Medical Center in Los Angeles.

There are at least 164,000 abortions a year after the first three months of pregnancy, and about 90,000 abortions a year after the first six months, according to the Alan Guttmacher Institute (New York Times, July 5 and November 6, 1995), which is an arm of Planned Parenthood. Others should be regarded as minimums, since they are based on voluntary reporting to the AGI.

For what reasons are partial-birth abortions typically performed? Some opponents of HR 1833, such as NARAL and the Planned Parenthood Federation of America (PPFA), have persistently disseminated claimed that the procedure is employed only in cases involving extraordinary threats to the mother of grave fetal disorders. Regrettably, more than a few reporters, commentators, and members of Congress have embraced such claims and disseminated them as "facts." For example, PPFA said in a press release that the procedure is "done only in cases when the mother is in danger in cases of extreme fetal abnormality." (Nov. 1, 1995)

But (as PPFA well knows), this claim is inconsistent with the writings and recorded statements of doctors who have performed thousands of these procedures, or with documents gathered by the House and Senate judiciary committees.

Dr. Haskell, the aboritionist Dr. Martin Haskell, who wrote a paper describing step-by-step how to perform the procedure (he's done over 1,000), described it as "a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." Dr. Haskell wrote that he "routinely performs this procedure on all patients 20 through 24 weeks" (6% to 5% months) pregnant [emphasis added], except on women who are more than 20 pounds overweight, have twins, or have certain other complicating factors.

In 1993, after NRLC's publicizing of Dr. Haskell's paper engendered considerable controversy on 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, in my particular case, probably 80% of this procedure are for genetic reasons. And the other 80% are purely elective.

In testimony in a lawsuit in 1995, Dr. Haskell testified that women come to him for partial-birth abortions with "a variety of conditions. Some medical, some not so medical." Among the "medical" examples he cited was "agoraphobia" (fear of open places).

Moreover, in testimony presented to the Senate Judiciary Committee on November 17, 1995, obgyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates) testified that three of her own patients had gone to Haskell's clinic for abortions "well beyond" 4 months into pregnancy, and that "none of these women had any medical illness, and all three had normal fetuses."

Brenda Pratt Shaver, a registered nurse who observed Dr. Haskell use the procedure to abort a fetus in 1993, testified that one little boy had Down Syndrome, while the other two babies were completely normal and their mothers were healthy. [Nurse Shaver's testimony before the House Judiciary subcommittee, with associated documentation, is available on request to NRLC.]

Dr. McMahon, who was invited to testify to the House Judiciary Constitution subcommittee a breakdown of a self-selected sample of procedures he had performed for what he called "maternal indications." Of these, the largest single category of "maternal indications"—39, or 22% of the total sample—was "depression." (Other "maternal indications" included "spousal drug exposure" and "substance abuse." ) Dr. McMahon's self-selected sample included "fetal indications" by which he evidently knew he had performed nine of these procedures for "cleft plate." Even though this data is cited in the official report of the committee, when NARAL President Kate Michelman was asked at a November 7, 1995 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." Dr. McMahon also wrote: After 26 weeks [six months], those pregnancies that are not flow induced and are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. [Emphasis added.] ["Pediatric indications" was Dr. McMahon's terminology for young teenagers.]

Dr. Pamela E. Smith, director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, testified: "There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother." Dr. Harlan R. Giles, a professor of "high-risk" obstetrics and perinatology at the University of North Carolina, testified that "partial-birth abortions with "a variety of procedures up until viability." In sworn testimony in the U.S. Federal District Court for the Southern District (Nager v. Tiller, 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 requires the fetus to be partially delivered. We can perform a maternal abortion where the fetus will be partially delivered. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Caesarean section for that matter, depending on the choice of the parents with informed consent."

But there's no reason these fetuses cannot be delivered vaginally after 23 weeks, and you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, page 240]"
Dr. Haskell: No it’s not. No, it’s really not. A percentage are for various numbers of rea-
sons. Some just because of the stress— intra-
uterine stress during you know, the two days that they're being dilated (dilatation and
untie 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 be-
fore I actually start to remove the fetus. And
probably the other third are partially. That is a gross distortion, and it’s
fetus. That is, it is not true that they’re born
on the radio. The fetus— I mean, it is a ter-
ple like these anti-choice folks that you had
birth’. That’s, that’s a term made up by peo-
liness added]. According to Prof. David H.
Michelman explained that she thinks it is
in an interview on “Newsmakers,” KMOX±
Rights Act League (NARAL). For example,
myth’’ has been Kate Michelman, president
other leading proponent of the “anesthesia
Principles and Practice, ‘‘Rational use of
administered a case of fetal demise that could be
attributed to an anesthetic. . . . In order to
cause fetal demise, it would be necessary to
give the mother dangerous and life-threaten-
ing doses of anesthesia.’’

Recently, the Planned Parenthood Federa-
tion of America has produced videos for the
local anesthetic drugs does not affect the
infant would be if subjected to the same pro-
cess as ‘‘assault weapons,’’ that terminology was
banned by the bill.
The term ‘‘intact dilation and evacuation’’ was not equivalent to the class of procedures
banned by the bill.
The bill would make it a criminal offense (ex-
cept to save a woman’s life) to perform a
‘‘partial-birth abortion,’’ which the bill
would define—as a matter of law—as “an
abortion in which the person performing the
procedure intentionally causes the death of a
fetus before killing the fetus and completing the
delivery.’’ [emphasis added].

In contrast, the term ‘‘intact dilation and evacuation’’ was invented by the late Dr.
James McMahon, and until recently, was id-
osyncratic to him. It appears in no standard medical textbook or database, nor does it ap-
pear anywhere in the standard textbook on
abortion methods, Abortion Practice by Dr.
Warren Hern.

Because “intact dilation and evacuation” is not a standard, clearly defined medical
term, the House Judiciary Constitution Sub-
committee staff (which drafted the bill under
Chairman Charles Canady) rejected it as useless for purposes of defining a crimi-
inal offense. Indeed, it is worse than useless—
a criminal statute that relied on such a term
by the federal courts as ‘‘void for vagueness.’’

Although there is no clear definition of the
term, we know enough to say that it is inac-
curate to equate ‘‘intact dilation and evacu-
ation’’ abortions with the procedures banned
by HR 1833, since in his writings Dr.
McMahon clearly used the term so broadly
as to cover certain procedures which would
not be affected at all by HR 1833 (e.g., re-
moval of babies who are killed entirely in
uterus, and removal of babies who have died
in utero, and removal of babies who have died
in the womb, and removal of babies who have
died in the womb). Indeed, some of the specific women highlighted by
opponents of HR 1833 had various types of
‘‘intact D&E’’ abortion procedures that were
not affected by HR 1833’s definition of ‘‘par-
tial-birth abortion.’’
The term chosen by Congress is in no sense misleading. In sworn testimony in an
Ohio license renewal hearing, Dr. Martin Haskell— who has done over 1,000 partial-birth abor-
tions, and who authored the instructional
paper that touched off the controversy over the term ‘‘partial-birth abortion’’— first
learned of the method when he was asked by acolleague to describe the method to him. He
first learned of the method when he was asked by a colleague to describe the method to him. He

In testimony before the Senate Judiciary Committee on November 17, 1995, Dr. Norig
Ellison, president of the 34,000-member American Society of Anesthesiologists
have such an effect ‘‘absolu-
tely no basis in scientific fact.’’ On behalf
of the ASA, Dr. Ellison testified that reg-
aonal anesthesia (used in many partial-birth
abortions) has virtually no effect on the fetus. General an-
esthesia has some sedating effect on the fetus, but much less than on the mother;
both ‘‘partial-birth’’ and ‘‘intact D&E’’ procedures are not as dangerous to the
fetus as the procedure described very briefly over the phone to me a

March 27, 1996
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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.

SHOULD THE COURTS EVER BAN SPECIFIC "SURGICAL PROCEDURES"?

Some prominent congressional opponents of the bill to ban partial-birth abortions, including Rep. Schroeder (D-Co.), argue that Congress should be given the power to ban a specific surgical procedure. But Rep. Schroeder is the prime sponsor of HR 941, the "Federal Prohibition of Female Genital Mutilation Senate companion of H.R. 1998." This bill generally would ban anyone (including a licensed physician) from performing "female genital mutilation," i.e., "infibulation," or "female circumcision." (Some physicians perform the procedure in response to requests from immigrants from certain countries, based on the rationale that those involved otherwise will probably not obtain the procedure from persons without medical training.) The bill provides a penalty of up to 10 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 a partial-birth abortion procedure.

Mr. WELDON of Florida. Mr. Speaker, I submit the following material for inclusion in the RECORD:

MOUNT SINAI HOSPITAL
MEDICAL CENTER
Chicago, IL, October 28, 1995.

Hon. CHARLES CANADY, Chairman, Subcommittee on the Constitution, House Committee on the Judiciary, Washington, DC.

DEAR CONGRESSMAN CANADY: It has recently been brought to my attention that opponents of HR 1833 have stated that this particular abortion technique should maintain its legality because it is sometimes employed when a woman’s health is at stake. 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.

In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 could be upheld by the Supreme Court without disturbing Roe. In Roe, the Supreme Court said that abortion is not a "fundamental right," but a "personal right," to quote Chief Justice Burger in that historic opinion. However, the Supreme Court has never ruled, as Justice Blackmore did in Oregon v. Roberts, that a constitutional right to kill human beings is only "protected" when a woman’s "health" is involved.

Moreover, 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-Flr.). Mr. Canady directed Dr. Robinson’s attention to the drawings displayed in poster size next to the witness table, and asked Dr. Robinson if they were "technically correct." Dr. Robinson responded: "This is exactly what is occurring in the hands of the two physicians involved." [Hearing record, page 89.]

Professor Watson Bowes of the University of North Carolina at Chapel Hill, co-editor of the Obstetrics and Gynecological Survey, wrote in a letter to Congressman Canady: "The term "dilation and extraction," was questioned about the drawings by Congressman Charles Canady (R-Fl.) Mr. Canady directed Dr. Robinson’s attention to the drawings displayed in poster size next to the witness table, and asked Dr. Robinson if they were "technically correct." Dr. Robinson responded: "This is exactly what is occurring in the hands of the two physicians involved." [Hearing record, page 89.]

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 (D-Co.) introduced HR 1833 to prevent Congressman Canady from displaying the line drawings during the debate on HR 1833 on the floor of the House of Representatives. The House voted by nearly a 4-to-1 margin (332 to 86) to permit the drawings to be used.

DOES THE BILL CONTRADICT U.S. SUPREME COURT DECISIONS?

The Supreme Court has never said that there is a constitutional right to kill human beings who are mostly born. In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 could be upheld by the Supreme Court without disturbing Roe. In Roe, the Supreme Court said that abortion is not a "fundamental right," but a "personal right," to quote Chief Justice Burger in that historic opinion. However, the Supreme Court has never ruled, as Justice Blackmore did in Oregon v. Roberts, that a constitutional right to kill human beings is only "protected" when a woman’s "health" is involved.

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Moreover, in a document entitled “Testimony Before the House Subcommittee on the Constitution”, June 23, 1995, Dr. James McMahon states that narcotic analgesic medications given “to the mother before birth are a medical coma” in the fetus, and he implies that this causes “a neurological fetal demise.” This statement suggests a lack of understanding of the maternal-fetal physiology. It is a fact that the distribution of analgesic medications given to a pregnant woman results in blood levels of the medications which are less than those in the mother. Having cared for pregnant women for who one reason or another required surgical procedures, I have learned that they were often heavily sedated or anesthetized for the procedures, and the fetuses did not die. Dr. Dru Carlson, a maternal/fetal medicine specialist from Cedars-Sinai Medical Center in Los Angeles, writes that she has personally observed Dr. McMahon perform this procedure. In a letter to Congressman Henry Hyde she described the procedure and wrote that after the fetal body is delivered, it is removed of cerebrospinal fluid from the brain that is released by the procedure. It is then killed by hypothermia and then delivered to the mother. McMahon states that the fetus is alive until the suction device is removed. This statement clearly suggests that the fetus is delivered in utero of natural causes or accident. Such a procedure would not be covered by the definition in your bill, because it would not involve delivering a live fetus and then killing it.

As regards viability of preterm infants in the second trimester of pregnancy: I have reviewed the “fetal head circumference” which is measured at 24 weeks’ gestation actually survive. The chance for survival at 25 weeks’ gestation is 10-15%; one week later—at 26 weeks—the chances of survival rises to 20-25%; at 27 weeks’ gestation it is achieved only in live births at 27 or more weeks’ gestation.” These figures are outdated and misleading. In a recent study from the Institute of Child Health and Human Development Neonatal Network, survival was documented in a large number of premature infants born at the seven percent and killing it.

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those very rights. To include an exception for the health of a mother versus her life, does nothing more than allow this procedure to continue to be used as an elective form of abortion.

For this reason, the Partial Birth Abortion Ban Act denies the support of every Member of Congress, regardless of your stance on the issue of abortion.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 1833. In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

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

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

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that they are carrying have severe, often fatal, abnormalities. Woman like Coreen Castello, a loyal Republican and former abortion protestor whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who had to terminate her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder; Vicki Wilson, who discovered at 36 weeks that her baby’s brain was growing outside his head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe abnormalities that would lead to certain death. These are not elective procedures. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

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

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would omit the most direct threat to a woman's life in cases involving severe fetal abnormalities—the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, they would have sought to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock or bleeding. Thus, the result of this provision is that women's lives would be jeopardized not saved.

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

Furthermore, the term “Partial birth abortion” is not found in any medical dictionaries, textbooks or coding manuals. It is a term made up by the author of H.R. 1833 to suggest that an abortifacient agent is used and then killed. The definition in H.R. 1833 is so vague as to be uninterpretable, yet chilling. Many OB/GYNs fear that this language could be interpreted to ban all abortions where the fetus remains intact. The supporters of this bill want to intimidate doctors into refusing to do abortions. Unfortunately, however, there was nothing specifically medical about H.R. 1833. A midwife, Dr. Callech, warns that few doctors will risk going to jail in order to perform this procedure. As a result, women and their families will find it even more difficult, if not impossible, to find a doctor who will perform a late-term abortion, and women’s lives will be put in even more danger.

Late term abortions are not common; 95.5 percent of abortions take place before 15 weeks. Only a little more than one-half of 1 percent take place at or after 20 weeks. Fewer than 600 abortions per year are done in the third trimester and all are done for reasons of life or health of the mother, severe heart disease, kidney failure, or rapidly advancing cancer, and in the case of severe fetal abnormalities incompatible with the life—no eyes, no kidneys, a heart with one chamber instead of four or large amounts of brain tissue missing or positioned outside of the skull, which itself may be missing.

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

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

Political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. The Department of Health and Human Services, in the Office of the Commissioner of OIG, noted that the Dole amendment would mark a dramatic and unprecedented expansion of congressional regulation of health care.

H.R. 1833 contains no exception for adequate medical care. The real consequence of a late term abortion on a child, a late term abortion is not a choice it is a necessity. We must not compound the physical and emotional trauma facing these women by denying them the safest medical procedure available.

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

H.R. 1833 also would require that late term abortions be performed in living facilities, an unnecessary regulation. In addition, the bill would ban all disagreements in the late term abortion debate, including restrictions on procedures to prevent physicians from providing the best medical care to their patients. The Dole amendment is dangerous and narrow and it would force doctors to forgo the safest choice for a woman whose life is at risk.

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

Mrs. SMITH of Washington. Mr. Speaker, this evening the House will be voting on the partial birth abortion ban legislation. As a nation, we have created a veil of silence when it comes to the reality of abortion procedures. It is easy to be pro-choice when one can claim ignorance about the ways and means of abortion; whether it is a saline abortion, dilation and extraction, or suction, just to name a few. Tonight, we are talking about a particular procedure commonly referred to as the “partial...
birth abortion." The very use of the word "birth" should be a clue as to how this procedure is performed. By inducing a "breech" birth, and I would like to note that I was a "breech" baby, a doctor is able to deliver a baby feet first and while the child's head is still in the uterus, a doctor scores or cuts in the base of the baby's skull and remove the brain tissue, thus collapsing the skull and then finishing the delivery of a now dead baby. We are tantalizing a young life as it enters the world, only to collapse its skull and end its life. I used to be pro-choice, but I am confident that I would have changed my views years earlier had I been aware of the truly horrid nature of abortion. Had I known that this procedure was being performed, my decision to choose abortion would have been that much simpler. As a mother and grandmother, it is mind boggling to imagine having labor induced, to be giving birth, only to have the opportunity to be a mother stopped in midstream. One mother, Brenda Pratt Shafer, is a nurse who witnessed this procedure. In her own words, she has stated that she "had often expressed strong pro-choice views to my two teenage daughters." However, upon witnessing the partial delivery and death of a baby, she realized that it is easy to be pro-choice when one does not have children. She realized that is all about money.

Some will say that this procedure is only used on children who would otherwise have serious birth defects or other abnormalities. The testimony of the doctors who have performed this procedure say otherwise. One such doctor, Martin Haskell of Ohio, has stated that 80 percent of abortions he has performed using this procedure were elective. Furthermore, as Americans, what is our life ethic if we continue down this slippery slope of wanting only the "perfect" child? I am fearful that as we increasingly hear terms like "gender selection" and the like, we will be banishing more innocent lives to a grisly death. As a mother, I know that there are no "perfect children." Health alone does not make the perfect child. If nothing else, the parents of that child may only have a few hours or days or weeks have the opportunity to bond with their child and then say "good-bye.

Banning this procedure does not mean that other forms of abortion are accepted. However, I challenge my colleagues in the House and Americans everywhere to justify the partial birth abortion. I ask my colleagues tonight to face the facts and accept this procedure for what it is. Many of us would like to turn the other way and have found ourselves angrily that we are being "forced" to look at first hand the graphic nature of this act. I can only respond by saying that man's inhumanity to man is never pleasant. It is necessary to understand what we are up against.

I ask my colleagues in the House to accept the reality of the partially birth abortion and join with me in banning this procedure. It is just plan sick and does not reflect the values upon which this Nation was founded and still embraces to be true today.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, what is the opposition to this misguided and deceptive legislation before us known as H.R. 1833, the Partial Birth Abortion Ban Act. I believe this bill is both bad politics and bad policy.

Mr. Speaker, it is critical to protect women's health and preserve the ability of these women to have future healthy pregnancies. H.R. 1833 prevents women from receiving the safest medical care in the rare cases when a wanted pregnancy has gone tragically wrong. Women's health is endangered, and do not want to lose their children. As passed by the Senate, and earlier by the House, H.R. 1833 is a direct constitutional challenge to both Roe and Casey because it fails to provide a health exception.

Mr. Speaker, we must not be misled by the Senate anti-abortion majority to purporting to be a "life exception." As drafted, the "life exception" language is so narrowly crafted that a doctor would still risk criminal prosecution to perform this procedure. It is important to note that the Senate, by a narrow margin, rejected a true "life exception" language that would have protected women who face life and health threatening pregnancies.

Mr. Speaker, since the House has considered this bill, public debate on the issue has shifted. The House acted to ban a specific abortion procedure and jail doctors after only brief debate and a prohibition on all amendments. When the far-reaching effects of this legislation were more fully debated both in the Senate and in the news media the bill passed by only a thin margin. The Senate amendments to the bill's proponents both in Congress and in anti-choice movements make it clear that H.R. 1833, far from being a moderate measure, is in fact the first step in an ambitious strategy to use the new congresional anti-choice majority to overturn Roe. I ask my colleagues to stop that from happening.

Mrs. VUCANOVOICH. Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born at 24 weeks. They were so tiny that they could fit in your hand. They were perfectly formed human beings and they are now 14 years old. It makes me shudder to think that somewhere in this country, perhaps even today, in this country that there are other little pre-born human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not a "recognized medical technique" and that "this procedure is basically repulsive." This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother however, this is an exception that will have to be used rarely. I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

I strongly urge my colleagues to support H.R. 1833, with the Senate amendments, which would ban this brutal procedure known as partial birth abortion.

Mr. ZELIFF. Mr. Speaker, I rise today in support of the conference report to H.R. 1833, the Partial Birth Abortion Ban Act, which will prohibit the use of a single medical procedure in the performance of abortions. I do believe that this particular procedure is unnecessary and a particularly cruel method of ending a life with no alternative. I believe that we should have no more to one procedure (with exemptions for life-threatening situations) in this case is appropriate, and does not affect the reproductive rights of women with regard to the Roe v. Wade decision, which I support. Enactment of this legislation will not in itself impact on those Constitutionally-guaranteed rights.

But let me be clear, Mr. Speaker, that I will not support a strategy in this body to slowly dismantle reproductive rights under Roe v. Wade piecemeal, and I will oppose further measures that are part of such a strategy.

Having an abortion is a right as guaranteed under the Constitution and upheld by the Supreme Court. To embark on a congressional strategy aimed at slowly striking down that right is not only wrong-headed, it is backhanded. The American people support the right to choose and that fact would make any effort in this House to further restrict the right to choose an effort without the support of the American public.

In sum, Mr. Speaker, while I support this legislation today I will not continue to support an effort to slowly and unfortunately dismantle the constitutionally-guaranteed rights in the country.

Mr. STOCKMAN. Mr. Speaker, I raise in support of the motion and ask you insert this information into the Record.

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology. Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

**Abortion Advocates**

**KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)**

One of the leading proponents of the "anesthesia myth" is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers,'" KMOV-AM in St. Louis on Nov. 2, 1995, Ms. Michelman said:

The other side grossly distorted the procedure. There is no such thing as a "partial-birth." That's that a term used by some to describe that kind of abortion. That fetus—mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedure even begins, the anesthesiologist that they give the woman generally causes the demise of the fetus. That is, it is not true that they are born partially. That is a gross distortion, and it's really a disservice to the public to say this.

Dr. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833: Medical Questions and Answers," which includes this statement:

"Q: When does the fetus die?"
"A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. After the anesthesia is administered, each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb."

THE PRESS

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extremists. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

"The fetus dies from an overdose of anesthesia given to its mother."

THE ST. LOUIS POST-DISPATCH

"The fetus usually dies from the anesthesia administered to the mother before the procedure begins." (News story, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLEN GOODMAN

Syndicated Ellen Goodman wrote in mid-November that, if one relied on 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."

THE TRUTH

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia." (American Medical News, Jan. 1, 1996)

"Anesthesia does not kill an infant if you don't kill the mother." (Dr. David Birnbach quoted in American Medical News, Jan. 1, 1996)

"I am deeply concerned, moreover, that widespread publicity ... may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelatable to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus."

"As you are aware, Mr. Chairman, I gave the same testimony to a Senate committee 4 months ago. That testimony received wide circulation in anesthesiology circles and to a lesser extent in the lay press. You may be interested in the fact that since my appearance, not one single anesthesiologist or other physician has contacted me to dispute my stated conclusions. Indeed, two eminent obstetric anesthesiologists appear with me today, testifying on their behalf and not as ASA representatives. I am pleased to note that their testimony reaches the same conclusions that I have expressed. Thank you for your attention. I am happy to respond to your questions."

Mr. GEJDENSON. Mr. Speaker, today I rise to express my opposition to H.R. 1833, the so-called "Partial-Birth" Abortion bill. I voted against this measure last year when it was first considered by the House and I will do so again this year. I do not believe that Congress is the proper authority to decide the appropriateness of a particular medical procedure. This decision should be made by a woman, her family and her physician.

Further, in addition to being the first step in an all-out assault on a woman's right to choose, this bill is also unconstitutional since it fails to make an exception for the life and health of the mother as required by Roe v. Wade. For that reason, President Clinton has indicated that he will veto this measure.

Proponents of H.R. 1833 would have the public to believe that the women who have third trimester abortions do so because after 6 months of pregnancy, they suddenly decide that they do not want a baby. This could not be further from the truth. The women I have heard about have lived through experiences—Mary Dorothy Line, Tammy Watts, Coreen Costello—all desperately wanted their babies, but severe fetal abnormalities left no chance of the child surviving outside of the womb. Nevertheless, they have all insisted that while their decision to have this procedure was a painful one, it was their choice, not one forced upon them by the Federal Government.

With this in mind, it is ironic that while the Republican majority in Congress has spent much of the past year denouncing Government intervention in an individual's private life, they are intent on passing this bill which is the ultimate imposition of Government on a woman's health care choices.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question in on the motion offered by the gentleman from Florida [Mr. CANADY].

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were yeses 286, nays 129, answered "present" 1, not voting 13, as follows:

YEAES—286

Crapo
Cran
Cramer
Cox
Costello
Condit
Cooley
Hastings (WA)
Haywood
Cramer
Crennes
Cox
Hefley
Craapo
Crennes
Cubin

YEAS—286

Allard
Arch
Bachus
Baoler (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bates
Beurer
Bevill
Bill
Blirakis
Billey
Blute
Boehner
Bonilla
Boner
Borski
Brewater
Brownback
Brown
Burr
Butler
Buyer
Callahan
Carter
Camp
Carney
Chabot
Chambliss
Chesweth
Christensen
Chrysler
Clinton
Clinger
Clark (TX)
Coburn
Collins (GA)
Coleman
Condit
Cooley
Henderson
Haywood
Cramer
Craapo
Cremeans
Cubin

Hobson
Hoeckstra
Hoe
Holden
Hostettler
Huntington
Hutchinson
Hyde
Ishhaq
Istook
Jaci
Jennison
Johnson (SD)
Johnson, Sam
Jones
Karjoreki
Kapur
Kasich
Kennedy (RI)
Kildee
Kim
Kim
Kingston
Klecka
Klink
Foley
Forbes
Knollenberg
Lafe
Lafroid
Largent
Larson
Launder
Laughlin
Lazio
Leach
Gephart
Green
Gilchrest
Gillmor
Goodloe
Golding
Gordon
Goss
Graham
Gunderson
Gutrecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Haywood
Hefley
Herger
Hillery
Hobson
Mr. Fowler of Florida for, with Mr. Stokes against.

Mr. MYERS of Indiana changed his vote from "nay" to "yea." So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule 204, I, the chair, will put the question on each motion to suspend the rules on which further proceeding were postponed on Tuesday, March 26, 1996, in the order in which that motion was entertained.

VOTES WILL BE TAKEN ON EACH MOTION TO SUSPEND THE RULES ON WHICH FURTHER PROCEEDING WERE POSTPONED.

ANNIVERSARY OF MASSACRE OF KURDS BY IRAQI GOVERNMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 379.

The Chair read the title of the resolution, House Resolution 379, by the yeas and nays: and House Concurrent Resolution 102, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

YEAS—409

Abercrombie       Florida                Pallone        New Jersey
Ackerman          Alaska                  Pascrell       New Jersey
Andrews           Georgia                Payne (NJ)     New Jersey
Baldacci          New Jersey            Pelosi (CA)   California
Becerra           California            Peterson (FL) Florida
Belelson           New Jersey            Pelter         New York
Benten            Arizona                Peterson (WI) Wisconsin
Bingham           Washington            Pitts         New York
Bishop            Idaho                  Pleim         Wisconsin
Boehner           Ohio                   Polis         Colorado
Boozman           Oklahoma              Pombo         California
Boucher           Nevada                Portman       Ohio
Brown (CA)         California            Portman      New York
Brown (OH)         Ohio                   Portman      New York
Campbell (TX)     Texas                  Power          New York
Cardin            Maryland              Pugh          Maryland
Chapman           Georgia                Price (TX)     Texas
Clay              Ohio                   Preston (IN)  Indiana
Clayton           Missouri              Pryor         Oklahoma
Coleman           New Hampshire          Quan (CA)     California
Connors           New York               Quigley       Oregon
Coyne             New York               Quigley       Oregon
Defazio           Massachusetts           Quigley       Oregon
DeLauro           Connecticut            Rahall        West Virginia
Dellums           New York               Ratcliffe     Massachusetts
Delucchi          New York               Rayburn       Georgia
Deutch            New York               Rehberg       Nevada
DiBartolo         New York               Rodgers       New York
Doyle             California            Rohrabacher   California
Durbin            Illinois               Ron Paul      Texas
Edwards           Georgia                Rowland       Alabama
Eshoo             New York               Roybal-Dallin Texas
Engel             New York               Roybal-Dallin Texas
Evans             New York               Ross          Illinois
Farr              New York               Rothenberger Wisconsin
Fattah            Ohio                   Roukema       Michigan
Fazio             California            Royce         California
Fields (CT)       Connecticut            Roosevelt     New York
Frelinghuysen     Pennsylvania          Rothe        New York
AVERSED "PRESENT"—1

NOT VOTING—15

Bryant (TX)        Texas                  Collins (IL)   Illinois
Collins (IL)       Illinois              Connecticut     Connecticut
Dornan            California            Dorgan         Alabama
Fincher           Alabama               Dole              Rhode Island
Foley             Missouri              Dorsett        Utah
Ford              Maryland              Dowd            Michigan

The Clerk announced the following pairs:

On this note: Mr. Thomas of California for, with Ms. Harman against.

Mr. Speaker:

...
[Roll No 96]

YEAS—408

NAYS—0

NOT VOTING—22

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3136, CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104-500) on the resolution (H. Res. 391) providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3103, HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104-501) on the resolution (H. Res. 392) providing for consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, and to promote the use of medical savings accounts, improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, which was referred to the House Calendar and ordered to be printed.
The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, March 27, 1996.

Hon. Newt Gingrich, Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that I, as custodian of records for the Office of the Clerk, U.S. House of Representatives, have been served with three grand jury subpoenas duces tecum issued by the U.S. District Court for the Eastern District of Michigan.

After consultation with the Office of General Counsel, I have determined that the Clerk’s Office has no documents responsive to the subpoenas. Through counsel, I will so notify the appropriate Assistant U.S. Attorney.

Sincerely,

Robin H. Carle,
Clerk of the House of Representatives.

FDA REFORM

The SPEAKER pro tempore. 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.

FDA REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Fox] is recognized for 5 minutes.

Mr. Fox of Pennsylvania. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight on a very important topic. Today it was announced that legislation will be introduced this week on FDA reform. This is long overdue here in the Congress, to make sure we help protect the health and safety of our constituents.

Today Congressman Greenwood, the task force chairman under Congress-man Bliley started out with a discussion of our mission and was followed with remarks from Chairman Bilankis, Chairman Barton, Congressman Klug, Congressman Buyer, Congressman Pallone, and Congressman Richardson.

It is a bipartisan effort, Mr. Speaker, for the purpose of making sure that we stop the insidious problem we have had in the country, with the FDA treatment delayed come FDA treatment denied. We need to save lives, especially those years, and improve quality of life for all of our constituents. An idea whose time has arrived is FDA reform, not just for food, but for medical devices and pharmaceuticals as well.

It may well be the most extensive and important piece of legislation we will deal with in the second session of the 104th Congress, that being FDA reform. If we can hasten the approval of experimental drugs, the miracle devices while patients await a cure or vaccine, we will certainly have accomplished much as Congressman and Senators.

Mr. Speaker, lest anyone believe otherwise, we are certainly not going to reduce in any way the safety of drugs, the efficacy of those drugs, but we want to speed up the process of the approval. It can be done through streamlining the clinical research, through third-party review and through working with international harmonization, by accepting certified results of tests by other countries.

I am hopeful the many people who came to Washington today with illnesses such as cancer, ALS, epilepsy, AIDS, and a myriad of other conditions they have come to us saying, look, we need to make sure we can live longer, please, do not stop us from getting the miracle drugs we need in order to live a little longer and hope for a cure.

I believe today, ladies and gentlemen, that we have heard from the American people, that we can work together in a bipartisan fashion, House and Senate together, working with the White House and working with the FDA. Dr. Kessler has a very important organization that he heads. We need to work with him to make sure the reforms we need are ones that can be embraced by all, because what we are talking about is the health care and the life of all of our constituents across this United States, in the country where 85 percent of the new drugs to extend life and to sustain life are being created. We want to make sure those discoveries stay here and the jobs of the people who are, thankfully, making those discoveries every day.

I thank you for the opportunity to address my colleagues, and I hope that we will fast-track this important legislation and it does in fact become passed before the end of the session.

Tribute to David Packard

The SPEAKER pro tempore. (Mr. Collins of Georgia.) Under a previous

William J. Clinton.
THE WHITE HOUSE, March 27, 1996.


The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. The agency resources devoted to the preparation of this report could be put to other, better uses.

William J. Clinton.
THE WHITE HOUSE, March 27, 1996.

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–502) on the resolution (H. Res. 393) waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the safety standards and procedures for treated medical devices, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–503) on the resolution (H. Res. 394) waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–504) on the resolution (H. Res. 393) waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–503) on the resolution (H. Res. 394) waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.
order of the House, the gentleman from California [Mr. FARR] is recognized for 5 minutes.

Mr. FARR of California. Mr. Speaker, it is with deep sorrow that I rise today to salute a man who, without question, represents the very best of California creativity and American ingenuity. David Packard, who revolutionized both the computer industry and modern-management practices died Tuesday in Palo Alto, CA. He was 83.

For anyone familiar with computers in the 20th century, the name Hewlett-Packard is synonymous with innovation, and with excellence. Founded in 1939 in a Palo Alto garage by Mr. Packard and his good friend William Hewlett, the company is now a recognized leader in its field, employing more than 100,000 workers. The "HP Way," Mr. Packard's standard for corporate practices and employee relations, is commonly cited as one of the best by business experts.

In creating his company, Mr. Packard said, "Get the best employees, stress the importance of teamwork, and fire them up with the will to win." Though many in business may take such words lightly, for Mr. Packard, they represented the only way to succeed.

There were no conventional offices at Hewlett-Packard, not even for the most senior engineers. To stress collaboration, creativity, employees were grouped together in close proximity where they could freely exchange ideas. This respect for the H-P employee also applied in a number of other ways. Hewlett-Packard was among the first in the business world to provide catastrophic medical coverage, flexible work hours and decentralized decision-making.

David Packard also took a keen interest in his global community and was a generous philanthropist. He established the Packard Foundation in 1964 to support community organizations, education, health care, conservation, population projects, the arts, and scientific research.

But while the Nation and the world are remembering David Packard for his business and industrial achievements, the people of the Monterey Bay are remembering David Packard as an ocean pioneer—our nation's Jacques Cousteau. He recently said that "I spent my entire business life in the technology field, and in my industrial career I have seen my share of revolutions in human understanding. I now realize that the ocean is the most important frontier we have."

David Packard used this scientific vision and $55 million to help his daughter Julie develop and open the Monterey Bay Aquarium—the world's best example of top science education as good business. David took his vision a step further and built a state of-the-art marine lab at Moss Landing to foster new deep ocean exploration technologies. All told, David and his late wife Lucile donated over $450 million to scientific research, education, health care, conservation and the arts.

On a personal note, let me just say that I will sorely miss the many contributions of David Packard. A good friend, he was one of those few people who, when talking about the ocean, actually touches our hearts, but also inspires our minds. David was one of a kind. My thoughts and prayers go out to his four children, David, Nancy, Susan and Julie, his colleagues and his many, many friends.

TRIBUTE TO DAVID PACKARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. McInnis] is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, I have just heard the gentleman from California [Mr. FARR] speak, and I want to say with some great deal of pride that Mr. Packard was born in my home town. He was indeed a very great man. He was indeed a fine, fine gentleman and certainly a leader in our country and a leader in business.

THE STRENGTH OF FAMILY AND RELIGION

But I wanted to speak tonight to my colleagues about a couple of things that are close to my heart. In the example of top science education as good business, the people of the Monterey Bay are remembering David Packard as an ocean pioneer—our nation's Jacques Cousteau. He recently said that "I spent my entire business life in the technology field, and in my industrial career I have seen my share of revolutions in human understanding. I now realize that the ocean is the most important frontier we have."

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David Packard also took a keen interest in his global community and was a generous philanthropist. He established the Packard Foundation in 1964 to support community organizations, education, health care, conservation, population projects, the arts, and scientific research.
competition from abroad we badly need to create new jobs and make the investments in our roads, bridges, airports, and sewers to make our Nation more competitive.

I want to remind Americans that since President Clinton, the economy has continued to grow. Nearly 8 million jobs were created since his election; the unemployment rate has fallen from 7.3 percent to 5.5 percent; and, the Federal deficit has been cut in half—reducing interest rates and purchasing power. Yet, despite this good economic news, there are too many regions of the country where job growth remains slow, wages are stagnant, and people are hurting financially. Although the unemployment rate continues to decline in my home State of Connecticut, the continued threat of job loss is damaging the economic security of many families. The Federal Government must help identify new markets, and expand opportunities for these hardworking Americans.

The National Infrastructure Development Act meets the needs of America by providing the financing mechanism needed to construct roads, bridges, sewer lines, and airports. My bill works by leveraging a limited public investment in infrastructure to attract private capital. In particular, this legislation targets the pension community and other institutional investors. Together, these investors represent $4.5 trillion in investment potential.

Investments in infrastructure create good, high paying jobs, and enable businesses to perform at full capacity. With a small Federal investment, the National Infrastructure Development Act will improve our nation’s infrastructure and create 250,000 jobs.

A public investment in infrastructure will succeed in spurring private sector investments. Evidence is already seeing private sector investors beginning to finance major infrastructure projects, such as toll roads. Further, a number of American pension plans are looking overseas to countries like China, where infrastructure investment is common. The United States must make private sector infrastructure investments even more attractive in this country.

My bill will make domestic infrastructure investments more attractive by investing in and insuring infrastructure projects through a government sponsored corporation. The National Infrastructure Corporation—or NIC—would be funded by an annual $1 billion government investment over a 3-year period. Construction or repair of schools, toll roads, airports, bridges, sewage treatment facilities, and clean water projects are potential NIC investments.

Municipalities and states could borrow from the NIC, or be insured by the NIC for infrastructure projects. These projects would be sound investments for pension funds. In return, these investments would strengthen the U.S. economy, and improve our Nation’s infrastructure. Over time, the NIC itself would be a solid investment for pension funds. The goal of this legislation is for private investors to eventually buy the Corporation from the Federal Government, repaying the taxpayer’s original investment.

In addition, my bill would enable cities or states to offer bonds to pension funds for infrastructure construction. These bonds, called Public Benefit Bonds, would be capital fit. The Federal Government would make investments for pension funds because the bonds enable them to pass on tax benefits to their pensions.

To be clear, the National Infrastructure Development Act is not intended to replace the traditional means of funding infrastructure projects. Federal and State assistance will still be needed to fund highways and mass transit projects, sewers, and other infrastructure projects. My bill in no way supplant traditional, traditional methods of funding domestic infrastructure development.

Investments through the NIC will enable states to make better use of Federal funds they currently receive for these projects by using a small Federal investment to leverage large private investments. More infrastructure will be funded as a result of this legislation.

The National Infrastructure Development Act builds on President Clinton’s goals for improving this Nation’s infrastructure. The Administration has enabled 32 States to construct 70 projects using a variety of innovative financing techniques. In addition, the Department of Transportation is completing a competition for 11 States to be able to establish State infrastructure banks that have a function similar to the National Infrastructure Corporation. Fifteen States entered this competition, and another 5 States wrote to express interest in entering future competitions.

This Congress has already given its approval of these efforts. The fact that so many States are looking for innovative financing methods should send a clear signal to this Congress that we must do more to meet these national infrastructure needs. The National Infrastructure Development Act achieves this objective.

This is a good government bill that benefits every American.

American workers benefit through good jobs. Under traditional government transportation and infrastructure investment programs, every billion dollars invested creates 35,000 to 50,000 new jobs. Under my bill, every dollar in Federal investment will result in $10 of actual construction. So each billion dollars in Federal Investment will create 300,000 to 400,000 good jobs.

American businesses benefit from reliable infrastructure. Businesses depend on airports, roads, wastewater treatment facilities, and clean water projects. Stronger infrastructure will aid economic expansion.

American taxpayers benefit from better modes of transportation for fewer tax dollars, and better environmental quality.

Pension investors benefit because they can look for investment opportunities in the United States instead of overseas.

Every Member of Congress knows that Federal resources are scarce. The National Infrastructure Development Act will fill a major funding gap with a short term, limited investment and rebuild our Nation’s infrastructure. Private investors need the opportunity to invest in America, and the Federal Government can work in partnership with the private sector.

This partnership will help us rebuild our country’s aging infrastructure, create great jobs, and promote good investments.

I urge my colleagues on both sides of the aisle to closely examine this bill. Now is the time for us to move this important piece of legislation. Mr. Speaker, I am pleased to join Congresswoman DELAURA in cosponsoring the National Infrastructure Development Act.

A fundamental governmental function is to create an economic environment conducive to growth and the creation of new opportunities and good jobs. No aspect of this function is more important than investing in the human and physical capital of the country. Prosper, our country needs investment in upgrading our public works and transportation systems. With the growing importance of high value added industry and just-in-time manufacturing, a strong transportation system is more vital to economic growth than ever. Unfortunately, we face a $300 billion backlog in transportation investment alone. According to recent studies, our national investment in transportation falls $17 billion short of the amount needed just to maintain current levels of performance.

During the 1980’s, real Federal investment in infrastructure fell 16 percent. As the Federal Government reduced its investment, greater burdens fell on the states and municipalities. And many of them—not just inner cities or small towns but suburbs as well—have been unable to meet their needs. The result: falling productivity and a diminished quality of life. People spend hours in traffic jams instead of in offices or at home with their families. Traffic congestion now costs drivers in our largest cities $40 billion per year. And long-promised road improvements needed to lower accident and fatalities remain undelivered.

While we have made some progress in recent years, numerous studies document the need for additional investment. Bringing our infrastructure up to current safety standards would require a doubling of the current highway program. The Bipartisan Commission to Promote Investment in America’s Infrastructure reported that America’s total investment shortfall in its infrastructure amounts to between $40 billion and $80 billion per year.

At the same time, Federal resources are limited. As discretionary spending caps are lowered, the Federal capital investment program will come under enormous pressure.

March 27, 1996
The purpose of the National Infrastructure Development Act is to increase the public works investment critical to our long-term economic growth. It does so by using innovative financing and techniques already used in the private sector to encourage more investment in our transportation system.

The National Infrastructure Development Act establishes an innovative, investment-oriented foreign infrastructure strategy to help states and municipal governments finance needed infrastructure. In creates a National Infrastructure Corporation to provide a broad array of financing for projects.

The Clinton administration's innovative investment program shows that there is tremendous interest among states and local governments in new methods that would make federal capital dollars go further. In the past year along, the administration has given approval to over 70 innovative financing projects in over 30 states. Moreover, 20 states have expressed interest in establishing state infrastructure banks that would enable them to make more created use of federal transportation funds.

While the Congress in ISTEA provided greater flexibility in our highway program, we have only scratched the surface of the potential. The recent experiences with privately-financed toll roads in California and Virginia and more discussions with state officials, business leaders, and local leaders lead me to believe that there is a strong need for creative federal leadership.

By leveraging private and other public sector monies, the corporation would substantially increase the amount of infrastructure created by each federal public works dollar. Experts estimate that the corporation would leverage up to $10 in private investment for every $1 it receives from the federal government. Under this legislation, the corporation's capitalization would be $3 billion. It is anticipated that this could support generate tens of billions in new investment and hundreds of thousands of jobs, while eliminating hundreds of infrastructure bottlenecks that stifle growth.

Congresswoman DELAURO has proposed an innovative mechanism to address the national problem of underinvestment in our public works. The legislation makes a valuable contribution to understanding the issue and attainment funds.

Mr. FAZIO of California. Mr. Speaker, I rise in strong support of legislation creating the National Infrastructure Corporation [NIC], of which I am an original cosponsor.

Today, it is estimated that there are over $30 billion in infrastructure projects throughout the United States. Due to increasing federal, state, and local budget constraints, important infrastructure projects are being delayed or not considered at all. While it is clear that the United States is becoming increasingly a technology and information-driven based economy, the inactivity to build, repair and upgrade our roads, bridges, rail systems, schools, and water treatment projects are just as important today as they ever have been.

That is why I have joined my colleagues today to address this important issue. This bill established the National Infrastructure Corporation to foster more public/private construction projects and to help create good jobs. The NIC will provide credit assistance in the form of direct loans, bond insurance, and development risk insurance for critically needed infrastructure projects throughout the country.

The creation of the NIC is an innovative or smart financing mechanism to help augment our old and outdated infrastructure. As we in Congress look for better ways to leverage federal resources, the NIC is a prime example of how the federal government can provide initial financial and significant in-kind resources to build new infrastructure and strengthen our old and outdated infrastructure.

To that end, I look forward to working with Representative ROSA DELAURO to bring this legislation to the country's attention and make it a priority in Congress.

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REPORT FROM INDIANA ON HOOSIER HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

Mr. MCINTOSH. Mr. Speaker, I rise today to give my report from Indiana. Every weekend Ruthie and I travel around my district and often meet amazing people, individuals who are truly dedicated to being the backbone of our community.

These are good people, taking responsibility for the future of our community. I like to call them Hoosier heroes. Today I want to praise leaders of the Stop the Violence movement in Anderson, IN, who have come together to help their community. With their persistence and dedication, they have created a very special group called Stop the Violence. Members of the community like Garrett Williams, Rev. Ray Wright, and Al Simmons have joined with schoolteachers and students at the Shadeland Elementary School.

They were fed up with gangs and drug dealers and the violence in their streets, and they came together and said, "This is not going to happen anymore. Today, the Stop the Violence movement, which is spearheaded by Rudy Porter in the mayor's office, sends a message to the schoolchildren of Anderson: you do not have to carry guns, you do not have to fight with your classmates, you do not have to buckle under to the pressure of drug dealers to be cool.

Stop the Violence gives schoolchildren and parents hope. It gives our entire nation hope, and I am proud to have been able to march with Rudy and those students, and I wish all Americans could witness the pride and joy that came from those children's faces as they set out to stand up to the criminals and drug dealers who roam their streets.

They said no. No more violence, no more drugs, no more crime. Hoosier heroes like Rudy Porter and Stop the Violence Committee give us hope that America's best days are indeed yet to come.

This is why I would like to commend not only Rudy, but also the students, parents, and the leaders of the Stop the Violence movement, our young people would get a message from us, a message loud and clear, we care about you, we have not forgotten who you are.

Thank you, Mr. Speaker. That is my report from Indiana for today. God bless.

NIKE'S RACE TO THE BOTTOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, in support of our "Come Shop with Me" campaign, the New York Times fortunately ran a story this month on the business page with the subtitle "Low Wages Would Foreign Business, But the Price Is India." The story, which I will enter in the Record tonight, describes how a 22-year-old Indonesian man named Tongris was dismissed from his job making Nike shoes for export to the United States because he was organizing his fellow workers to demand more than the government-dictated poverty wage.

How much was Tongris and his co-workers getting paid to make Nike shoes? Twenty cents an hour. And that is all they ever got.

More than 5,000 workers turn out Nike shoes at this plant in Indonesia, shoes which often sell for over $100 a pair here in the United States. Nike and thousands of other manufacturers have been lured to set up business in Indonesia by the pitifully low wage level, along with the assurance by the Indonesian government that it will tolerate no strikes or independent worker associations. But as the Indonesian government itself admits in the article, it sets its wage purposefully extremely low to only provide the minimum calories the worker need to survive each day.

For many workers here, this is no different from how plantation owners thought about feeding their slaves. Feed them enough so that they will not die on the job. In fact, I remember visiting the Auschwitz death camp and reading the sign above the entry gate that read "Work will make you free." Nike would like you to believe that they are truly a great American company. Nike in fact has been spending...
We went on strike to ask for better wages and an improvement in the food," Mr. Situmorang explained. "Twenty-two of us went on strike. They told us not to demand anything unless we got an answer. But I have sued to get my job back.

Low wages are a big attraction for foreign companies doing business in Asia as high labor taxes and building costs in native nations make the manufacturing of many consumer goods uneconomical. Like a wave washing over Asia, labor-intensive factories have swept such countries and its labor standards have risen from Hong Kong, Taiwan and South Korea, across Asia to China, Vietnam and Indonesia.

And across Southeast Asia, businesses in developing economies are feeling pressure from workers like Mr. Situmorang to lift wages. Powerless workers whipsawed by more and businesses and governments that fear that rising wages will drive away jobs to even-lower-wage countries. As strikes and worker-organizing attempts have increased here, the Government has taken a harsher line by cracking down on workers with police and military force.

For some companies, like Levi Strauss, worker complaints were enough to prompt it to leave Indonesia two years ago. But others, like Nike, whose shoes are made in 35 plants across the region, have been able to take advantage of cheap labor.

For the Indonesian Government, the long-term solution may be to find manufacturers that produce products that can support higher wages. "Our strategy is to improve our products so we are not producing products that are made in China, Vietnam, India or Bangladesh," said Tunghi Ariwibowo, the powerful Minister of Industry and Trade. "We cannot compete on wages with them."

More than 200,000 churn out Nike shoes here, shoes that often sell in stores in Asia, Europe and North America for perhaps $100 a pair. Nike and thousands of other manufacturers have lured to set up business in Indonesia by the low wages—and the assurance that the Government will tolerate no strikes or independent unions.

Yet even at a little more than $2 a day, there is a widespread sense in Government circles that even that is too high for Indonesia to stay competitive.

As the companies try to hold down wages—wages the Government admits provide only 93 percent of the earnings required for subsistence for one person—strikes and worker-organizing attempts have increased. In 1995, 30 strikes were reported, but there are lots of reports from around the country of strikes. The number of strikes is increasing," said Apong Herlima, a lawyer for the Indonesian Federation of Workers in labor cases in Jakarta. "Employers always call the police and they come and interrogate the workers. Then, the workers are fired.

Because Indonesia's press treads carefully around sensitive issues—and social unrest is among the tenderest of subjects—it is difficult to gauge precisely the level of labor unrest. The Government reported that there were 297 strikes last year, although it did not provide the number of workers involved. Independent labor organizes insist the actual number is far higher.

"The number of strikes is increasing," said Laksmi Sapti, a worker in nearby Tangerang. "Most factories don't actually pay the minimum wage. Garment factories should pay $400 ruhiph each day, but there is usually underpayment. So there are strikes. We try to organize workers. The factory owners use the police and the military to crack down. They try to intimidate the workers.

The Indonesian Government recognizes only one Government-sponsored union, the Federation of All Indonesian Workers Union. But independent workers and labor activists insist that the Government union does nothing to represent Indonesia's 40 million workers.

"Since they don't come from the bottom, and they aren't elected by the workers, there is no hope for the Government union," said Indera Nababan, the director of the Social Communication Foundation, a labor education group sponsored by the Communion of Churches of Indonesia. "I don't think over 10 years there has been any considerable change. The workers have no rights here to argue for their rights."

Not far from the Nike factory here, Usip, a 22-year-old leaning against the cement wall of the tiny room he shares with his 19-year-old wife, Nurisimi. Together, said Mr. Usip, who like most Javanese has only one name, the couple earn about $4.10 a day—or $82 a month. Of that, they must pay about $23 for the 6-foot-by-6-foot cement room they live in, with the remainder for their food and other needs.

A single bare bulb dangles from the ceiling, its dim glare revealing a plain bed, a single tortilla at the bottom of the cabinet. Their room, one of a dozen in a long cement building, is provided with one container of water daily. If they want more water, each must pay 100 ruhiph.

"Of course we're not satisfied with this," Mr. Usip said, his words coming quietly. "We
Mr. KINGSTON. Mr. Speaker, I have a couple of topics we wanted to talk about tonight, and have with me my colleague from Arizona [Mr. HAYWORTH], and we may have others joining us. But what we were going to do is talk about some of the difference between the 103d Congress, the Congress that was here in 1993 and 1994, and contrast that with the current Congress that was elected and began to serve in 1995.

If you look back 2 years ago, which was my first term in Washington, and think about the changes, in 1993 the President had just passed the largest tax increase in the history of the country and then tried to spin it and tried to nudge the president toward Medicare for all.

At the same time, the bureaucracy did not want to get left out of the action, and OSHA, the Occupational Safety and Health Administration, came up with a proposal that said if you smoke in your own house and you have a domestic employee, then you must have a smoke ventilator in your own kitchen. The EEOC, meanwhile, came out with a 5-page list of the most dangerous hazards in the workplace today is religious symbols. So if you were working at the Ford plant and you had a "Jesus saves" T-shirt on, or if you had a necklace that had a Star of David, that was offensive. EEOC determined the use of religious symbols in the workplace to be the kind of thing that we would be on the floor of the 103d Congress.

Now, contrast that with the 104th Congress. We have a Congress that has cut staff by one-third, reduced its operating expenses by $67 million, and put Congress and all of its Members under the same workplace laws as the private sector.

Mr. Speaker, tonight we want to talk a little bit about the environment, we want to pave Old Faithful and level the Rocky Mountains. But what is really going on with these issues, Mr. Speaker? We want to talk a little bit about the environment tonight, we want to talk a little bit about taxes and the middle class, and we will continue through a series of discussions to talk about some of these other issues.

I will yield the floor to Mr. HAYWORTH at this time.

Mr. HAYWORTH. I thank my friend from Georgia. I am heartened by the fact that other colleagues from the majority join us tonight to talk about a variety of topics.

Mr. Speaker, the gentleman from Georgia is absolutely correct. There could not be a greater difference in Government than the difference that exists between the 103d Congress, held captive by the proponents of big Government, and now an emerging consensus led by the current President which is that centralized planning is more and more taxation and more and more spending, and those of us now in the majority in the 104th Congress, unafraid to offer American, Mr. Speaker, a clear, commonsense approach to Government, an approach which really beckons and harkens back to our founders, an approach typified in the first act this Congress passed, which simply said this: Members of Congress should lead by example and set the same examples for the American people.

Indeed, as my friend from Georgia pointed out, with a litany of progress on a variety of issues, there is one inescapable fact that we confront at this juncture in the second session of the 104th Congress, and that is the criticism, the carping, the complaining, of liberals, both in this city and nationwide, of the powerful special interests who have as their mission in life the maintenance of the welfare state, the maintenance and enhancement and growth of centralized planning; those disciples of big Government who now would criticize the new commerce in this new majority and paint our agenda, indeed, our contract for America, as somehow being extreme.

Mr. Speaker, it is time to point to this simple fact: The only thing extreme about the agenda of the new majority is the fact that it makes extremely good sense.

I take, for example, the comments of my friend from Georgia, who talked about the fact that in the wake of the 1992 election the incoming President, as one of his first acts, chose to propose and this Chamber approved by a very, the largest tax increase in American history. Emboldened by that victory, our friend at the other end of Pennsylvania Avenue worked in secret to devise a plan of government, that is to say, socialized medicine. The American people said "Enough," and in November 1994 gave this new Congress a mandate.

Mr. Speaker, I can vouch as one who watched with interest my colleague from Georgia and my other colleagues here who served in the 103d Congress and served valiantly to point out the absurdity of the extremism of those who always endorse the liberal welfare state, I saw with my eyes their valiant efforts.

But more importantly, through the votes of the good people of the United States of America with a new majority, we have moved to do simple things, concurrently, the same thing that is the candidate for the Presidency, who was ultimately elected in 1992, talked about. My friend from Georgia remembers this well. Remember the campaign rhetoric: I will balance the budget in 5 years?

Mr. KINGSTON. Larry King Live, June 4, 1992.

Mr. HAYWORTH. My friend from Georgia offers the attribution. And if my friend from Georgia remembers this well. Remember the campaign rhetoric: I will balance the budget in 5 years?

Mr. KINGSTON. June 4, 1992.
since he is a physical fitness buff, the budget that the gentleman at the other end of Pennsylvania Avenue now advocates to try and bring our budget into balance would be akin to me saying I need to go on a diet. I think we can all acknowledge the fact. I think I am going to lose 50 pounds over the next 2 months, but I am going to lose 2 of those pounds in several weeks’ time, and I will save the 48 remaining pounds for the final 2 days of the diet. It just does not work.

Theoretically, you can write down numbers on a sheet of paper, but what this new majority has offered is a clear, commonsense plan to bring this budget into balance in 7 years, which this President vetoed; a clear, commonsense plan to reform welfare as we know it, which this President vetoed; and now yielding to my friend from Georgia, I would gladly listen to his points.

Mr. KINGSTON. Mr. Speaker, I think it is important really when we do have a dialog to be factual about it. We have been accused of cutting student loans, and yet our budget calls for increasing student loans from $24 to $36 billion. We have been accused of cutting Medicare, but our budget goes from $180 billion to $290 billion. I think it is important that when we talk about this that we divide the facts from the rhetoric.

Now, one of the things that we have been trying to do with our reforms is to balance things, and I know our friend from Michigan [Mr. EHLERS] is here, and we wanted to talk about yes, there are things we are trying to fix, but we are not trying to destroy things, specifically in the environment. I do a lot of camping, and I plan to continue to do a lot of camping. I have 4 children, and my 12-year-old daughter last year went camping with me. My 10-year-old son is coming along, and I want that environment there for them. I want there to be plenty of species out there. I want the endangered species to be protected. I want private property rights to be protected as well.

Mr. Speaker, I really get offended when the President accuses us of trying to gut environmental legislation when the Clean Water Act, the Endangered Species Act, and the Environmental Protection Agency all were created in the early 1970’s under a Republican administration.

Let me yield to the gentleman from Michigan.

Mr. EHLERS. Thank you very much. I appreciate the gentleman yielding me time, and I would like to take a few moments to talk about some Republican ideas on the environment.

As the gentleman correctly pointed out, there are facts. I think we are over the past 2 years for some of the actions taken and some of the votes that were held, but I would like to discuss from my perspective, first of all, as a scientist. I am sure the gentleman is aware of my scientific background. Perhaps not all of my colleagues are. But I would just simply mention I have a doctorate in nuclear physics, and I worked in the field for a number of years before I entered the political arena. That does not make me an environmentalist or an ecologist automatically, but it at least indicates that I have the ability to establish fact from fiction in dealing with environmental issues.

Mr. Speaker, back in 1968 I first became concerned about the environment, and I noticed a little notice in the newspaper in Grand Rapids, MI, my hometown, that there was going to be a meeting to discuss environmental issues. I went to that meeting. There were a group of citizens concerned about some pollution that was taking place at that time in various areas of the State, and we formed an organization called the West Michigan Environmental Action Council, and I served as a charter member of that and I have also served on the board.

That whetted my interest in what was happening to the environment, and I decided to run for the county commission and I used that as a means to straighten out the solid waste situation in my county. It took the work of a lot of other people, too. I do not want to claim the credit for it. But it shows what a citizen activist who is concerned about the environment can do.

The interesting thing is, when I was elected to office and came up with some solutions, I soon lost many of my environmental friends who thought I was going to be the one that was going to save the world. The gentleman knows as well I, from working on issues here, there are many sides to issues and you have to use a reasonable, logical approach. When you are faced with pounds of garbage coming in the gate and the threat of it piling up on the sidewalks, you have to make some tough choices.

But over a period of time, we managed to totally revamp the solid waste disposal system that we used to have, I suggested renaming it the solid waste storage system, because the gentleman knows as well I that if you put it in the landfill, you have not disposed of it; you have simply stored it, and it is still there to create problems in the future. But in any event, we did resolve the environmental issues, and I will not go into all the details of that.

Later I moved on to the State senate. I was made chairman of the Environment Affairs and Natural Resources Committee. In the course of several years, with the help of John Engler, who was senate majority leader at that time, now the Governor of the State of Michigan, we got landmark legislation passed and probably had more environmental legislation passed in those 4 years than at any time in the history of the State of Michigan.

Mr. Speaker, I am giving this not to brag about my accomplishments but to point out to people who think the environment is a Democrat issue and not a Republican issue are sorely mistaken. We have different approaches perhaps, but I believe that we can accomplish a great deal in the environment by working together.

Mr. KINGSTON. I want to emphasize what the gentleman is saying by pointing out that President Theodore Roosevelt started the National Park System, and, of course, he was a great Republican at the time.

Mr. EHLERS. He was a great Republican, and also started in some ways the political meaning of the term conservationist. I always love to point out to my friends that the root word for conservation is the same as the root word for the conservative. Any true conservative should be an environmentalist, because it is important for all of us to conserve what we have for the advantage of future generations.

During my time in the political arena and working on environmental issues, I have learned some lessons which I just want to share with my colleagues here. First of all, the environment is extremely important. I can perhaps draw an analogy to something that we discuss here an awful lot: The balanced budget. We approach this, as Republicans, from the standpoint that we want to protect this economy, this Nation for our children and grandchildren. It is simply not right for us to continue to live in debt and expect our children and grandchildren to pay that debt. We want to leave them a promising future and not a huge debt. Well, that is also true of the environment. That is one of the reasons I am a confirmed environmentalist.

It is absolutely wrong for us to leave a polluted country to our children and grandchildren and to other future generations. We have to give them the same resource opportunities that we inherited from our ancestors. We have to give them the same clean environment that we inherited from those who came before us. That is why the environment is very important to me. I want my children and grandchildren and their grandchildren to inherit a clean country, a clean planet, and to be able to have the resources to use and enjoy this planet.

Mr. Speaker, another lesson I have learned is that energy, energy and energy use, are probably the single most important component of the environment. Not everyone realizes this. But once you begin analyzing the sources of pollution, where it comes from, how it comes from, a lot of it is from improper use of energy or inefficient use of energy, and that is something this Congress has to spend
Mr. KINGSTON. If the gentleman from Georgia is interested in peanut butter, I would like to know more about it. Mr. EHlers. I do want to ask how you people in Michigan consume peanut butter. I would like to know more about that.

Mr. EHlers. Well, in fact, everyone consumes peanut butter, and that is why it has not been banned. It is a food staple for so many people. I am simply pointing out that what we have to do is analyze the risks in every situation and prioritize the risks. There is a great deal of concern, of course, in our Nation about toxic waste, but yet, if you analyze it in a head-on manner what are the environmental risks we have today, what is the highest environmental risk, you are likely to find that there are many things other than improper disposal of waste that are higher up on the list.

For example, urban sprawl with its destruction of habitat, and destruction of habitat of course is key in the endangerment because there are so many that leads to something that my colleague from Maryland sitting here is an expert on, the Endangered Species Act. These are all very, very complex issues. We have to look at all aspects of these and recognize precisely what the problems are, and what the dangers are, and what this leads to, as my final point in this list before I summarize, and that is what we need is common sense regulation. That is something I have stood for throughout my legislative career.

It is very easy to adopt what is called the command and control approach where you simply say something is bad, let us regulate it out of existence. If you do that with the costs and benefits and the costs, you can go down a very dangerous path, dangerous both in terms of health and our economy.

What we, what I, typically did in the Michigan Senate, when we encountered a problem, I would get representatives gathered. I would get scientists together, environmentalists, industrialists, everyone possible, get a representative group together, sit down in a room and pound it out, week, after week, eat together, exchange ideas about the problem and come up with a solution.

Mr. Speaker, frankly, that is what I believe that we have to have the Congress doing as well. That really results in good communication which gives the maximum return on laws and the maximum return on the investment of time and energy as well as money.

Mr. KINGSTON. If the gentleman would yield, I wanted to illustrate that on a true case that happened in Riverside, CA, where the residents in a neighborhood were not allowed to dig fire trenches because it would endanger kangaroo rat habitat. And so fire breaks were not dug, and a fire came. Thirty homes were destroyed, but, in addition to that, over 20,000 acres of kangaroo rat habitat was destroyed.

Clearly, using what you are saying, common sense approach, this certainly does not benefit the home owners, but it also defeated the whole objective, which was to protect the rat.

So we can clearly, without endangering the animal, we can clearly have more flexibility of the law and get away from the command and control which leaves out common sense.

Mr. EHlers. Let me give an example, too, that occurred in Michigan.

Years ago it was discovered that the Kirtland's warbler in Michigan was an endangered animal. Everyone loved the Kirtland's warbler, a wonderful bird, beautiful song. It was endangered because of some very peculiar mating habits. This bird is very selective about its habitat for mating. It would only mate in jack pine trees which were less than 6 feet tall. As the forest grew, the jack pine were too tall, and the birds would not mate. So they were becoming extinct.

The initial approach suggested setting aside vast acreages so that there would be any given time enough jack pine available so that the birds would nest and proliferate. In fact, a different approach was developed, and that was to
use smaller acreage and provide for selective cuttings of timber in such a fashion that there is always ample jack pine of the appropriate height.

The Kirtland’s warbler has flourished. It is no longer endangered. It has become a tourist attraction in that area. So we find that we have improved the habitat for the Kirtland’s warbler. It has benefited the community as well, and it is a good example of meeting the needs of the environment, meeting the needs of the endangered species, and more people becoming involved in the process, and in the long run and in the short run, I believe, we will be more successful.

A hundred years from now, and I am sure that there are people out there listening, Mr. Speaker, that knew people that were alive in 1896. And we will know people that will know people in 2096. I am not sure any of us will know people that are alive in 2096, but our great grandchildren, perhaps our great-great grandchildren, and some new people that will be alive in the year 2096. So a hundred-year time span is not very long. And for us to protect the resources that we have right now, I think, is crucially important so that future generations will be able to enjoy the blessings that we have inherited.

Now in order to do that I do not think you can do that from a centralized authority like the Federal Government. We have been accumulating knowledge more with the States and the local governments and even private citizens. So, we create environmental legislation which is important for a lot of reasons.

For example, about 40 percent of the pollution problem in the Chesapeake Bay, where I come from, the Chesapeake Bay watershed; I live on the eastern shore of Maryland; about 40 percent of the problem in the Chesapeake Bay is air deposition. That pollution comes in several ways, there is very little you can do about that, and about 60 percent of that air pollution which pollutes the Chesapeake Bay from the air is from automobiles.

We are increasing the number of cars every year; we are increasing the number of people that live in the watershed every year. So we have to begin to find solutions to problems that are difficult to solve because very often, if not always, the problems are as a result of increased population.

The way to do that, I think, is to begin cooperating and consulting with these environmental pieces of legislation, with the State government, with the local government and private citizens developing policies that can actually work. Future generations will not care who cleaned up the pollution, or even who polluted. The fact is they are going to live with what we do.

One other comment about clean air and clean water, I believe, is that the Republicans are tagged with causing gridlock in Washington, with causing partisan politics in Washington, especially when it relates to environmental issues. I would just like to send this message, and that is gridlock. Arguments in Washington are not bad. You do not see the North Koreans arguing. You do not see gridlock in Cuba. What you see here in Washington is an argument that people believe in. They believe in America should move forward. These arguments are actually bringing out more information. In fact, I would say that the people with the most credibility in Washington right now are not the ones who have been in Washington for a long time; they are not the powerful committee chairmen that might have been elected in the 1950s. We do not have that anymore.

Mr. Speaker, the people with the most power in Washington are now the ones with credibility, and people with credibility are people with information. If we can begin to share information from Member to Member and develop legislation so that we can resolve these problems, then I think we are going to move forward to protect the environment.

Mr. HAY WORTH, Mr. Speaker, if the gentleman will yield on that point, first of all, I have the utmost respect for my colleague from Maryland. We serve together on the Committee on Resources. It is no secret that we may not agree on every single jot and tittle with reference to policy.

Yet at the same time I am heartened by the fact that the gentleman from Maryland, as well as my friend from Michigan and my friend from Georgia, all recognize this central theme, that it is not centralization of power or a one-size-fits-all philosophy that oft times is outdated with reference to new technologies that develop, but, instead, the realization that, more and more, there must be a spirit of conciliation, a spirit of cooperation, and the notion that is really quite common sensical when you think about it, the acknowledgment that Phoenix is not the same as Philadelphia, that Monroe is not the same as Grand Rapids, MI, that Savannah, GA, may not be the same as St. Louis, MO. There are different issues that confront us all.

So in that spirit even while there may be some disagreements on how we get to a cleaner environment, how we recapture for the American people the true spirit of conservation, let us start with that premise, and also what the gentleman from Michigan talked about, and that is the sense of balance that must be there, preservation of the environment, a true spirit of conservation, and at the same time a preservation, if you will, of the fragile rural character, and do not think there is anybody in this Congress that would just like to send this message, and that is gridlock. Arguments in Washington are not bad. You do not see the North Koreans arguing. You do not see gridlock in Cuba. What you see here in Washington is an argument that people believe in.
of some within this body and at the other end of Pennsylvania Avenue to try and demonize those who will take another approach, indeed along the same lines of the school lunch debate, really the school lunch scare, and with reference to the mediscare debate, we have yet to see starving children in the streets or the elderly thrown in the streets. And by the same token, I do not believe the vast majority of Americans are turning on their taps and drinking sewage.

So let us articulate up front that, while there may be some slight differences in approaches, the bottom line remains true for members of the new majority. We want to find constructive, common sense solutions that preserve the environment, that preserve the economy and do exactly what the gentleman from Maryland talks about, offers an environment to generations yet unborn that is clean and that may be used, not only for emotional wellbeing, but for economic wellbeing for that is the challenge we face in the last decade of the 20th century.

So I am heartened by my friend’s remarks and look forward to working with him, even acknowledging some differences along the way. I yield to my friend from Georgia.

Mr. KINGSTON. What is important though is we bring our laws up with our technology and bring our laws up with other levels of government to realize that when the Environmental Protection Agency, started in the very early 1970’s, it was just about the only and certainly the premier environmental protection agency in the country. Today in Georgia, in Maryland, in Michigan, and Arizona you have narrow rows. You have your own Environmental Protection Agency, which probably is about 10, 15 years old at this point.

Mr. Speaker, I had the honor to speak to the Association of State Environmental Protection Divisions a couple of months ago. I was a little bit worried because I was afraid that, well, I do not know if I am walking into a lion’s den or not. They said, “We are ready. We can handle this. We can probably do a better job of attacking pollution cleanup because we are closer to the sites, we can work with turning, or the State legislative, we can get it turned around. Do not run from it, but do not get in our way, either.” I think that is important.

Mr. EHLERS. Mr. Speaker, if the gentleman will yield, I would just like to correct a little bit of discussion, and especially commend the gentleman from Maryland [Mr. GILCHREST], who is, I believe, without doubt, the wetlands expert of the Congress. He knows a great deal about it, and has made some very important contributions to that.

As I mentioned earlier, Mr. Speaker, I have been involved in the founding of the West Michigan Environmental Council. That group plus another group were instrumental in making Michigan the leader in writing State laws, in many cases before any other State or the Federal Government had. We wrote a wetlands law in Michigan over two decades ago, and that is the only State that has been delegated authority by the EPA to administer its own wetlands law, and is not subject to Federal wetlands law. It has always puzzled me why other States do not do the same, precisely as the gentleman from Maryland pointed out, each State is often better able to judge the situation within their State. Michigan is a very wet State. We are surrounded by Great Lakes, we have many inland lakes, we have many wetlands, and we have developed a wetlands law that works very well. I do not want to imply that it is without trouble and without dispute, but I can tell the Members from my experience in working with that and slogging through with respect to all the laws and working with the people, we managed to work things out.

Mr. Speaker, I was astounded when I came to Washington and discovered the antagonism toward the EPA in most circumstances without regard to wetlands. I think part of it is, as the gentleman from Arizona mentioned, we have tried to pass one-size-fits-all legislation, and certainly the wetlands requirements in South Dakota and Arizona and Michigan and in Maryland. I think it is important for us to recognize that. It is also important for the States to take on that responsibility, as Michigan has done in passing its own wetlands law.

Similarly with takings laws, that is a real legal morass, and I regret the takings legislation that passed this body earlier this year, because I think, again, it was an attempt to be a one-size-fits-all, and it certainly did not fit my State. We worked with that for years with the wetlands law, with the Sand Dune Protection Act. We have come to a reasonable working arrangement on that, and keep working on trying to improve it.

Again, realize that the real objective is to protect the environment and work in a common-sense fashion that works, that gets the job done. When you were talking about clean water and clean air a moment ago, I was reminded, when I was growing up in Michigan, in 1966, the Grand River, which was a beautiful river running right through downtown, was filthy. No one would swim in it. No one boated on it. No one would think of catching fish from it. Now the river is clean enough so it has become a major fishing attraction. People boat on the river, and some now dare to swim in the river.

So we have made considerable progress in the past couple of decades, I think Michigan is key to how far we have made some progress we have made. We should never forget that. We have cleaned up most of the biological pollutants in the water and in the air. Now we are working on the chemical pollutants. It is a much tougher problem and much more scientific in nature. We have to, as I said earlier, use good science to do that.

Mr. KINGSTON. Mr. Speaker, as the gentleman points out, though, the need for honesty and integrity in the debate is so important. We have a Superfund bill we have been trying to get reauthorized for 2 years, and while we are speaking, only about five of the national priority sites get cleaned up each year. Only 12 percent of the polluted national priority sites have been cleaned up, after 15 years and $25 billion of Superfund law. It is broken. Let us fix it. There is going to be a little bit of disagreement between the manufacturers in the private sector and the environmental community, but I would suspect there is still 75 percent or 80 percent of the issue that could be moved forward right now. Mr. Speaker, I am not frustrated by the fact that in Washington, we always have to have this debate from both sides of any issue. “The sky is falling,” and the other side wants to accelerate this would join me in this fight. It is very difficult in that kind of atmosphere to have an honest debate.

I know the gentleman from Maryland has been in the very center of some of these things.

Mr. GILCHREST. Mr. Speaker, the gentleman from Georgia is correct about the Superfund situation. I think this Congress has begun the process of resolving the vast differences in that piece of legislation. We can have as our priority spending the money on cleanup costs rather than litigation costs.

I would like to mention just one thing to the gentleman from Michigan. I know Michigan has assumed the enforcement of the Federal wetlands regulations, and Maryland is about to do the same thing. I would like to make a comment on wetlands, the Endangered Species Act, and these other pieces of environmental legislation that are sometimes very emotionally discussed.

In the State of Maryland, as a result of the Chesapeake Bay improving and having clean water, much of that is attributed to wetlands filtering out a good deal of the nitrogen that comes in as a result of farming, or filters out a variety of other pollutants that get into the groundwater and spawning areas for fish, but wetlands is key to the economic boom here, is about $2 billion worth of tourism, commercial fishing, recreational fishing, hunting, boating that comes to the State of Maryland as a result of the type of environment we have, so wetland regulations help us to manage our resources.

The Endangered Species Act, which in the State of Maryland is actually stricter than the Federal Endangered Species Act, that might cause some alarm for some people, but for the State of Maryland, it assumes that our rural areas, through certain management tools on the Federal, State, and
local level, when we work in a pretty cooperative consulting fashion, ensures that our number one industry, or number one and number two industries in the State of Maryland are fishing, tourism, and agriculture. To save these parts of our economy, we need to work together and not apart.

We do need to recognize the differences in a regional way, but people in Louisiana want clean water, as the people in Maryland want clean water, so it is the consulting process. It is getting involved from all the different levels, including elected officials getting involved in the consulting process.

I just want to close with this one point, Mr. Speaker. I read recently a book from a Montana mayor, and I can’t remember his name, the mayor of Missoula, Montana, wrote a book about community and place, and how we can reconcile the difference, especially that seems to become political differences. The essence of the book, without going into all the details, he recommended the people to read, it is called “Community and the Politics of Place,” I think that is the name of it. But the essence of the book is, he said that America used to be a frontier. People used to be able to go where they wanted to go, and did not like they were. If they had religious differences or had any kind of quarrel or wanted to seek adventure, they could go to the frontier that seemed endless. Now America does not really have a frontier. People are filling up with people, and we are a prosperous Nation, so the next frontier will be the frontier that is based on our ability to consult, to cooperate, to use our intellectual skills to manage the limited resources that we have so that they will still exist for future generations. We cannot do that and argue.

My son told me a couple of years ago when he was in high school, when he sort of was getting ready to look at the world and decide what he wanted to do, that he thought like two people in a big truck driving down the highway at 90 miles an hour, and the highway ended at a huge precipice, a 10,000-foot drop, and the people were not only not paying attention to where they were going, they were arguing.

If we are going to be legislators that are going to deal with the problem of the Nation, we have to, together, set the example so we can cooperate here and disseminate that sense of policy to the rest of the country.

Mr. EHLERS. Mr. Speaker, if the gentleman will continue to yield, I simply wanted to comment that I agree wholeheartedly with that. I think, getting back to the theme of what we have been talking about, we are simply trying to demonstrate that we are Republicans are trying to develop a responsible approach to the environment here.

I appreciate the comments that have been made. I thank the gentleman from Maryland especially for his views on wetlands, and obviously, it is very similar to Michigan. There is just one minor correction, by the way. Michigan has its own wetlands law, whereas Maryland and New Jersey will administer the Federal wetlands law.

It was interesting, when I was in office there I heard a lot of complaints about that legislator proposed repealing the Michigan wetland law. The two groups that argued the most against that were the sportsmen, who think the wetlands law is wonderful, because Michigan has great hunting and fishing and so forth, and the business. They said, “We know this law. It works for Michigan. We do not want to be under the Federal law.” That shows how each State can design the law that accomplishes the goals better than we can with a one-size-fits-all approach from Washington.

I think we have to set a minimum standard, but encourage States to go beyond that. As Republicans who are talking the devolution of power, of letting the people in the communities have a say, I think this fits in beautifully with that.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, I appreciate the gentleman’s point, and I simply want to make this point that I think it transcends almost every debate we have here, and it is a philosophical point of view that I think rings true with the majority of the American people.

As you relate to us the experiences of Michigan, as our colleague from Maryland relates the experiences in his State, certainly none among us would argue that at a certain time in our history, the Federal Government has played a genuinely worthwhile role in serving as a catalyst to deal with some dramatic issues, but history does not occur in a vacuum.

Therefore, the challenge for us at this juncture in our history is to ask this question: Who do we trust? Do we trust the American people, do we trust local officials elected by the people close to home, officials elected to State government, legislatures that have grown up in the last 25 years to confront these problems, or do we always and forever turn these problems over to Washington bureaucrats to fit a Washington solution which may fit Washington, DC, but which might not fit Michigan State? that is the essence of the debate that we have on a variety of topics.

I thank the gentleman from Michigan for earlier, that distinction yet again when it comes to environmental legislation, the true meaning of conservation, and what it will mean to protect and preserve the environment as we move into the next century.

Mr. EHLERS. Mr. Speaker, we simply say, Mr. Speaker, we need both. Take clean air, for example. We have to have a Federal law, because the transport across distances is so huge, but we also need to have to regulate this is applied locally, and do it in a common sense fashion. Only with everyone working together are we truly going to achieve a clean environment.

THE URGENT NEED FOR MEANINGFUL TAX REFORM

Mr. KINGSTON. Mr. Speaker, we wanted to touch base on the tax situation, with April 15 approaching quickly. I will yield to the gentleman from Arizona [Mr. HAYWORTH] and we will start off with a couple of fun facts, first, about our tax system, because if you are like many of your American friends this last week or two, you took time filling out your tax form.

On average, it takes 12 hours for you and your family to fill out your tax forms to the degree that you can, and then you take it to your accountant, and pay anywhere from $150 to $700 or $800, depending on where you are and how much you own and so forth. If you are a small business, it takes you 22 hours.

Here is a statistic that I really like, Mr. Speaker. The IRS has 480 tax forms, and 280 of them are forms that tell you how to fill out the other forms. That is absolutely absurd. The need for tax reform is urgent, it is great, it is right now. It is appropriate to look at while we are trying to balance the budget.

Mr. Speaker, I yield to the gentleman from Arizona [Mr. HAYWORTH].
Mr. Speaker, we need to make a change. We have taken a look at priorities and we see that clearly, in the wake of these expenditures, Washington’s priorities have totally gotten out of whack.

Mr. KINGSTON. What is so important is that the average family in the 1960’s paid 3 percent and today pays 24 percent in Federal income taxes. When you add in the other taxes, State and local taxes, the average middle-class family pays about 25 percent taxes.

I had an opportunity to talk to a driver with UPS, United Parcel Service, in my district. He said, “My wife works. She teaches school and has a good job, and I get a lot of overtime. We have got three kids, and at the end of the month we do not have anything because it goes into washers and dryers and taxes and regulations and so forth.”

That is the story of the middle-class American family today. All they are doing is working for the government. Then we turn around and make them fill out a tax form that is absurd, which we cannot understand.

Mr. Speaker, you are on the Committee on Ways and Means. I bet you most Members of Congress cannot even fill out their own tax form. I believe that is real important. If we cannot do it, we who are setting the law, what do we expect of the American people?

Mr. HAYWORTH. If my friend would yield, there is something fundamentally wrong when the average American family pays more in taxes than on food, clothing and shelter. There is something wrong when Washington sends its resources to pay for 111,000 IRS employees, and yet can only have 6,700 DEA employees and only 5,900 border patrol employees.

What does that say to the American people? The Washington bureaucrats are saying, “Oh, we do not have time to staunch the flow of illegal drugs. We do not have time to guard the borders, though one of the powers of the Federal Government as mandated in the constitution. But we do have time to audit you, Mr. and Ms. America. We do have time to cast aspersions on your honesty. We do have time to try and find our way into your pocketbook again and again and again and again.”

Mr. Speaker, there is nothing ignoble or dishonorable about hard-working American taxpayers hanging onto more of their money, not paying cashing less here to Washington, DC. Indeed, in the days to come once again, I know my friend Georgia disagrees with this notion, we extend our hand in cooperation to the minority. We extend our heartfelt congratulations to the President of the United States.

We have talked the talk for too long. Now, Mr. Speaker, it is time for us to walk the walk. We voted that way in this Chamber. We hope that those who would oppose this idea would join with us and get about the business of governing. The American people deserve no less.

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

Mr. Speaker, we have worked to repeal the 1993 Clinton tax increase on Social Security recipients. We have worked to increase the earnings limitation across this country. We have worked to increase the estate tax threshold from $600,000 to $750,000, and we have worked to end the marriage tax penalty and the capital gains tax, and the President vetoed that. Along with that, he vetoed a $500 per child tax credit for middle-class families.

Right now in America households all over this land, from Maine to Miami to California, you can reach in your pocket and say here is $500 that was a dividend for my work this year, but it was vetoed by this President of the United States.

We are not going to stop, Mr. Speaker, and talking about taxes is going to take a lot more time. We have with us the gentleman from California who knows my friend Georgia disagrees with this Congress under the guise of taxing the rich. This person who was a classic example of the so-called tax on the rich. This person made less than $14,000 a year, but because he happened to be a Latino who had very strong religious beliefs, he did not divorce his wife. He was married and filing separate. Eighty-five percent of his Social Security is being taxed. I will say this, and I need to say this so that I can go home to my bride in California this weekend.

The fact is that she showed me one individual and talked to one individual who was a classic example of the so-called tax on the rich. This person made less than $14,000 a year, but because he happened to be a Latino who had very strong religious beliefs, he did not divorce his wife. He was married and filing separate. Eighty-five percent of his Social Security is being taxed.

You remember in 1993 they told those of my colleagues who were here, this is only a tax on the wealthy Social Security recipients; it is not on the poor. Well, this man would like to ask: Would somebody in Congress tell him how rich he is?

I think that that is one issue that is not discussed enough and we need to start bringing somebody who is involved in doing tax returns for the working class in my community in San Diego, Mr. Speaker, I hope to bring up more of those items, talking with the constituents who are being taxed by this Congress under the guise of taxing the rich, when it is the working class that is getting harmed by this unfair and unjust legislation.

Mr. Speaker, another item that is unfair and unjust is that we have been working all week that fact that this Government of the United States has in the past rewarded people for coming across the border and breaking our immigration laws and then getting welfare, free education and free medicine, to the point where it is costing the State of California immense amounts of revenue, and the Federal Government has been walking away from this expense. The people in this country are paying this expense because the Federal Government has ignored it.

Mr. Speaker, with the passage of H.R. 2202, Mr. SMITH’s bill, we are finally now seeing this Congress recognizing the responsibility and duty to address the fact of illegal immigration. But there is one part of the illegal immigration issue, Mr. Speaker, that has not been addressed.

Mr. Speaker, I will just ask that we all consider the fact that giving automatic citizenship to children of illegal aliens is a problem we need to address. My bill, H.R. 1363, will address that, and we hope to work on that in the very near future.

WOMEN, WAGES, AND JOBS

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

Mr. Speaker, another item that is unfair and unjust is that this Congress under the guise of taxing the rich.

The SPEAKER pro tempore. Under the gentleman’s and lady’s request of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 60 minutes.

Ms. NORTON. Mr. Speaker, this special order on women, wages, and jobs coincides during Women’s History Month, but more pertinent it comes because finally the issue of declining wages in our country has made it onto the national agenda.

The underlying discontent that has been there for two decades have come forward, and we see it in the Republican primaries. It is interesting that at least since the early 1980’s many of us have been pointing to this un-American phenomenon where the stock market does well and people do poorly. Somehow or other it never caught on. There has been some attention paid to it as it affects men because the manufacturing sector has been so decimated and that is what has happened that the country is beginning to recognize that something different is happening, it is important that we look at all of those of whom something different is happening, and that is why I choose to raise it in relation to women.

As a former chair of the Equal Opportunity Employment Commission, I have long had an interest in discrimination against women. More is at work here than simple discrimination, however, what is at work is the nature of our economy itself, some historic changes that are underway that reflect upon the kinds of jobs that are being produced and who gets those jobs.

The effect is felt in the widest gap in incomes we have seen since we have been keeping these records. We need to look at how this phenomenon affects women in particular because with the change in the economy there have been the greatest changes in women in the work force.

I want to point to a bill I have introduced, the Fair Pay Act, which in its
own way is to the 1990's or seeks to be to the 1990's what the Equal Pay Act was to the 1960's.

This body in 1963 passed the Equal Pay Act in order to close the wage gap between men and women, and the Equal Pay Act has since gained a long list of successes with its limited mandate. Essentially, it was to look at people doing the same job and being paid differently for it. Some progress has been made, partly because of the Equal Pay Act, so that we have experienced a 62-percent gap now to something like a 71-percent gap. That is the good news until we hear the bad news.

The bad news is that the closing of the gap itself reflects an alarming decrease in male wages as well as the new presence of highly educated women or highly skilled women in entry-level positions only. In other words, the average woman is just where she was. The average woman is experiencing what the average man is, stagnant or declining wages. But at entry levels, highly educated women like doctors and lawyers make the same as men, although those women have a gap that develops within their profession after the entry level.

I am this evening interested in the average woman, the silent worker out there every day. The Fair Pay Act is directed specifically to her and to part of what she is experiencing, a very good job about raising the minimum wage. Here is a subject covered with my mythology. If we are going to talk about women workers, we must talk about the minimum wage. Indeed, if we are going to talk seriously about welfare reform, the Fair Pay Act is the minimum wage. Who are we talking about when we talk about a minimum wage worker? Some Americans would say, well, I think you are talking about a bunch of teenagers working at McDonald’s. If a typical minimum wage worker is a white woman over 20 years of age, likely to live in the South, who has not had the opportunity to attend college and who works in a retail trade, agriculture, or service job. That is who the minimum wage worker is. She is your aunt and your young friend who has just graduated from high school.

Most minimum wage workers are women; 5.75 million women are paid below the poverty line. That means 17 percent of all hourly paid female workers earn the minimum wage and only the minimum wage. Most female minimum wage workers are not teenagers. They are adults. And when we say women and raising the minimum wage, we are talking about girls, most certainly the guardians of poor children. Often, most often, these minimum wage workers are women who are raising the poor children.

Now, Mr. Speaker, I am not here talking about the favorite subject of this body, deficit reduction. The minimum wage will add not 1 cent to the United States deficit. What it will do is take 300,000 children immediately out of poverty. It will add not 1 cent to the United States deficit. We are talking about the minimum wage worker above the poverty line. The current poverty line for a family of four is $15,600. Now, if that family of four has one worker earning the minimum wage, $4.25 an hour, working full time the year around about $8,840 a year, that worker would receive a tax credit, thanks to legislation passed by this body, if we do not cut it terribly much, and there are proposals to cut it, but today that worker would receive a tax credit of $3,400 under the provisions of the earned income tax credit.

That worker is poor, that worker, single wage earner in a family of four, that she could collect food stamps worth $3,516. She would nevertheless still pay $450 in payroll taxes after qualifying for benefits and paying her payroll taxes. This family ends up $834 below the poverty line.

This is America, my friends. We cannot continue to send people to work every day, working hard, working in work you do not want to do and I do not want to do, and have them come home below the poverty line. That is dangerous. You are hearing the rumblings of it out there in the Republican primaries. Answer the call now.

In every State there will be large percentages that will benefit from an increase in the minimum wage. In every State there will be large percentages that will benefit from an increase in the minimum wage. In my own city, a fairly small percentage, 7.8 percent, would benefit, and as I look at what would happen in some of the States, I am simply amazed. Idaho, almost 14 percent of the workers would benefit. In Louisiana, almost 20 percent of the workers would benefit. In Michigan, 10.5 percent; in Mississippi, 17 percent of the workers would benefit. In North Dakota, 18.2 percent of the workers would benefit.

I see my good friend and colleague from Georgia, Representative McKinney, here. In Georgia, 11.9 percent of the workers would benefit. Very substantial percentages all across the United States, regardless of sex, regardless of your preconceptions about the place, regardless of whether you think of it as a poor State or a rich State, you have substantial percentages of the population that would immediately benefit from a raise from the minimum wage, not 1 cent added to the deficit, a sharing of income of the kind that would benefit the worker, the minimum wage worker, the worker who works hard, the worker who produces stuff for the other 97 percent of the American people.
that has been typical in the United States that as companies become more prosperous there is a greater sharing of the profits with the workers. That is what has not been happening. That is why we are having a growing income gap.

The number of African-Americans who would benefit is important to note. Seventeen percent of all hourly paid African-American workers are minimum wage workers, and most of these low-wage workers are female. Twenty-one percent of all hourly paid Latino workers are minimum wage workers. And Latino women are especially likely to be paid very low wages; 25 percent of hourly paid Latino women earn at the minimum wage.

Now, I want to examine the critique of an increase in the minimum wage that is most often made, and that is that you reduce job opportunities. The answer is that that is not the case. I refer to nearly two dozen independent studies that have found that the last two increases in the minimum wage had an insignificant effect on employment. The Nobel Laureate economist Robert Solow recently told the New York Times that the evidence of job loss is weak and I am quoting him, “The fact that the evidence is week suggest that the impact on jobs is small.” Prof. Richard Freeman of Harvard said the following: At the level of the minimum wage in the late 1980’s, moderate legislative increases did not reduce employment and were, if anything, associated with higher employment in some locales. We remember the 1980’s, do we not, when there was a plethora of minimum wage jobs breaking out all over this country? Minimum wage seems not to do what the conventional wisdom tells us. Kind of look at the facts. We have got to look at the studies.

There is also the myth that the blow will be to small businesses. First of all, 90 percent of workers in small business already earn more than the current minimum wage. Do not think that people in small businesses are simply looking for the cheapest labor they can find. They are looking for the best labor they can find. They have got to be able to pay people who give them the biggest bang for the buck. In any case, the law does not apply to businesses that do not have annual sales in excess of 450,000. The increase also does not apply to businesses that do pay less than the current minimum wage. Indeed, half of minimum wage workers work in firms with more than 100 employees. That is cheating workers.

What this means is, we are giving a break to moderate and larger employers, because we are allowing them to hire people at minimum wage and keep more of the profit for themselves and they pass that on to us, ladies and gentlemen, because those people qualify for supplemental welfare, those people qualify for the supplemental benefits, food stamps and the rest. So go right ahead the way you are doing it, because what is means you are doing when you are allowing the employer to pay the present minimum wage is you are subsidizing that employer yourself. That is us, we, the taxpayers.

That is us, we, the taxpayers. Let them pay for the labor. Business is doing well. President Clinton has had an extraordinary effect on the stock market because of the way in which he has reduced the deficit. That is one of the factors that is yielding large gains in the stock market.

Where are those gains reflected in the pay envelope of the minimum wage worker? Why should the taxpayers subsidize the very wages that are getting not paying their fair share. Certainly they are not paying their workers what they are worth. What we have seen here just in terms of the corporate income tax is that corporate income taxes have gone down. Of course corporate income taxes have had to take up the slack.

In the previous special order we had one of our colleagues discussing about the diet that he was on, trying to lose 50 pounds, and he was going to lose 2 pounds, and then, of course, the other 48 pounds for the last 2 days of the diet.

Well, I think that is about the way the Republicans have run this ship of state, because they in their budget put off the hard decisions until the out years. But the Progressive Caucus has come up with a budget plan that does not put off the hard decisions into the off years. It goes right in by cutting defense spending and cutting corporate welfare. We demonstrate that you can have a downward trend, a steady downward decline in the deficit, if you make the hard choices, and you make them early.

So basically I would just say that when the economy is bad, nothing else is good. The work that you have put together with the legislation will improve the lives of working women all over this country.

I come from a family where my mother worked. She worked for 40 years and then, save, the other as a nurse. I am a single female head of household, and I am a working woman. I suspect that if my son grows up and Marries, as I suspect that he will, he will also marry a working woman. I just want to make sure that the leadership of this country is aware and sensitive of the needs of working women, and that is what your legislation provides for.

I would also say, as the only one in the Georgia delegation, that when we were elected, we had woken come to our office for issues that ranged from access to credit, to child support enforcement, to sexual harassment, and
even something as simple as a role model who showed to them that, yes, it could be done.

So just as we plead with our colleagues to make sure that the plight of working women is not forgotten, we plead for ourselves, and I commend you for your legislation and the work that you do as a role model for the rest of us.

Ms. NORTON. I want to thank the gentlewoman from Georgia indicated that women were in fact beginning to improve, and that is true. But women have now been caught in the spiral that has dragged men’s wages down, and that is why we have really got to step up and take notice.

Until the 1970’s women came into the work force drawn there by rising real wages. In order words, they came into the work force because they could earn more money and they were drawn to the work force by virtue of the lure of greater income.

Since the 1970’s, there has been sluggish wage growth. Still they come. They come because they must. They come even though the wage gap for them, for the average one of them, is not closing.

Now it is very interesting, in the 1980’s we did see a rather precipitous narrowing of the wage gap. It is not altogether clear why, but we do know this, that 50 percent of the gap remains unexplained. We believe that possible explanations may be occupational segregation, that women often get lower paying jobs than men get if they have the same qualifications, and that women are paid less than men despite their education.

In any case, the figures tell you about the creation of a whole new work force in our lifetime. In the 1950’s, 30 percent of the work force was women. Today, 45 percent of the work force is women. In other words, we have come to the point where half of the people who go to work every day are men and half of the people who go to work every day are women. Yet the reward of wages is simply not there for the average woman.

Indeed, if we look at where women are employed, the lower the earnings, the greater percentage of women in that occupation. That is whether they are making goods or performing services.

Why are women working? I can tell you this much, they must be working, because there is no other choice, because half of all married women with children under 3 are in the labor force. Few women, unless they are highly educated and making a lot of money, and that is rather few, are going to go to work if they have a child under 3. In the 1970’s, it was not half of all married women, it was a quarter. That means we have doubled. They are there because they have to be there. They are there because they are single head of household, or they are there because one wage earner cannot do it any longer in a family of two wage earners.

Women are to the new service economy, what manufacturers were to the economy of the Industrial Revolution. Let us face it. That is what women are. We have fueled the new economy with women. Except in a very real sense, they look exactly like the male industrial workers, low paid, poor benefits of the 19th century. The conversion is itself remarkable. The conversion I speak of is in the economy itself, which has prepared the way to accept women workers.

In the 1960’s three-quarters of all the nonfarm job creation was in services. That is a lot. But by the 1970’s, 80 percent of all the nonfarm job creation was in services. By the 1980’s, 100 percent of all the net job growth was in the services. Four out of every five women workers.

What do I mean by a service job? Because what I mean by a service job is in fact or tells in fact the story of declining and low wages.

A service job for a woman is a fast-food job. It is a job in a department store. It is a job as a health aide. It is a job as a hospital order clerk. It is a job in residential day care. It is a job as a beautician. It is a job as a clerical. The next time you go into the department store, look at that woman. Look at her closely, and you will know what I mean.

Mr. Speaker, the interesting thing is that historically, women tended to be in school and hospital jobs. There are proportionally few workers there because there are so many other workers in these other service jobs now that they have overwhelmed these school workers and the hospital workers, but watch out.

The school workers and the hospital workers very often were teachers and nurses, and those are relatively high-paid women’s jobs, compared with health aides, insurance company clerks, fast-food clerks and department store clerks. These are honorable jobs. These are often good jobs. They just do not pay well. They do not pay what they are worth.

Listen to your constituents. They are hurting. They are hurting because they are not earning what they are worth. We have the only answer, is to get a greater sharing of the benefits of the labor to which those who perform the labor. That is the American way, and unless it works that way, you get a disgruntled working class. There is no getting around it. You cannot continue to have a democratic society with a greater and greater share of the wages going to the top and almost none going to those at the bottom.

Now, do we have a situation where the money simply isn’t there, that is the problem? That, my friends, is not the problem. You need only open your paper and look at what the stock market is doing, and you will see that the money is there. If anything, downsizing has resulted in many who were there getting paid more. It did not. That is why many companies are taking a second look at downsizing, because they have done it on the cheap. They have done it at the expense of workers and have not, in fact, increased productivity, have not done it the old-fashioned way, the American way.

Mr. Speaker, women have become the indispensable new workers who are fodder for the new economy. The last time the country needed the kind of labor supply we have gotten from women in the last two decades were, No. 1, at the time of the great immigration from Europe in the late 19th and early 20th century and No. 2, at the time the black workers in the South left and came North. Today, instead of asking workers to come from Europe or Asia to the United States, and of course there are many immigrants who come, instead what we are saying is, look at your own household and send a worker out for the new economy. If you are going to send a worker out for the new economy from your own household, they should not be the new worker be paid what that new worker is worth.

Listen to your constituents now. Hear the cry. I say to my colleagues on the other side of the aisle, listen to your own primary. I never thought I would live to see a Republican sound like a labor Democrat, but I think that is what I heard Pat Buchanan sounding like. Now, that is not his tradition, and that is not the way he has run his political life, but I do think he heard something out there. We all better listen to it.

Whenever we have listened, we have found a remedy. This is not susceptible to yesterday’s ideology or even tomorrow’s. This is a new problem in the United States. When wages are low, the economy is bad. When wages are high, the economy is good. What is this new phenomenon? The economy is good and wages are low. Should not work that way.

Mr. Speaker, one of the things we can do, if it is working that way, is to look at the minimum wage, which has simply lost its value, and say pay people a little more to work. If you do not, you will end up with work force downsizing, my friends get up on the House floor and say why do they not work? If it does not pay to work, how can we expect people to work? This is America at the turn of the century. This is a country that must not send people to work only to have them come home poor. That is what is happening.
Economists tell us that there are a number of explanations for the low wages of women in particular. Typically, we are told that a reason for these low wages is crowding or concentration in traditional women’s occupations. This may be some of it. But recent studies look to other answers. There was crowding in men’s occupations. They had low skills, and yet in manufacturing, they had high wages. Why? My friends, the economists say it was because they were unionized. When the company would not share the profits, men went out and unionized. Women have not done that, and that may be part of the reason the economists tell us that they have not been able to extract a fair share of the profit of their labor from their employers.

We are also told that a reason is low capital investment in the industries in which women work. Even though we may not find the real answer any time soon, we can look for a change very soon. We cannot allow the United States to become a place where you develop a permanent working class of God forbid, what appear to be the case in many of the inner cities, a permanent underclass of people who never move up. Those would be the homeless, the people who are chronically or constantly unemployed. A greater and greater proportion of our population falls into this category. It is a society where, however poor you were, you could look forward to being better off than your father. You may have been poor, but not as poor as he was. So there was steady progress, and a man could live to see a man who picked cotton live to see his son or daughter go to college. Today, people go to college on college loans and come back home to live because they cannot afford to strike out on their own, the way their parents did.

Mr. Speaker, this is a new America. This is not our America. We do not have all the answers to this America, but we do know this. Surely one of the answers surely is to give back at least some of the value to the minimum wage. It will have an effect, not only on those low-income workers, but it will have something of a ripple effect on those who are nearly as badly off, and you will not know the difference. You will not know it in the deficit. The businesses is question will hardly know it, because a few cents from their profit will go to their workers instead. Who among us would wish for any less?

Mr. Speaker, I recognize that the notion of the minimum wage, or for matter, my Fair Pay Act, are matters that have tended to divide Republican from Democrat, but it was in a Republican primary that I heard this cry first, and it was a Republican candidate that has tried to respond to it. He has responded to it in ways which many, not only in his own party but in mine, simply cannot agree. But he has heard something real. This body must hear something real. It is there. Do not deny it.

Do not tell low-paid workers who go to work every day that something will happen if you only wait for the economy to fit my paradigm, whether it is your flat-tax paradigm, your national sales tax paradigm or, for that matter, paradigms from my side of the aisle, such as stimulation paradigms. People need hope and relief now.

This is not our America. We do not remember that these minimum-wage workers pay the same social security taxes that the rich do, and the difference in the impact on their pay envelopes is gargantuan. They need a break. They need a raise. Many of them are women, and the majority, the great majority, of those who earn the minimum wage are women, and they are the people who take care of your children, who are the teachers of the next generation. Hear them. Receive them. Respond and remedy.

Mr. DELLUMS. Mr. Speaker, I take this opportunity, as organized by my valued colleague, Congresswoman ELEANOR HOLMES NORTON, to address the economic condition of women, the jobs that they do and have, and the wages that they receive in relation to the general pool of wage earners. Some of us have been deeply concerned by the deteriorating economic status of the vast majority of workers, citizens, in this country. Although this fall from economic grace began about 16 years ago, the cumulative effects of this steady drop are now beginning to be painfully felt by the majority of job holders.

The experience and story of one of my constituents, whom I shall call Mason, is descriptive of many other people in my district and throughout the United States.

Ms. Mason has one pre-school child. She works in a produce market and tries to work at least 40 hours a week, 50 weeks a year, and yet only get about $32 hours of work a week. She gets more than the minimum wage, $5 an hour. Her wage is a bit higher because the San Francisco bay area is one of the most expensive places to live in the United States. When she is lucky and works a steady 50 weeks a year, her total income is $8,000 a year. After taxes, her take home pay is $7,710.

She shares an apartment with her sister; Betty’s share of the rent is $250 a month or $3,000 a year. Of course she needs child care. Although she is on several lists for the few subsidized child care slots in the area, there are needier cases than hers—women who have even less income. So she pays something nominal, $100 a month, $1,200 a year to members of families who are available. Her share of the utilities, telephone, and garbage comes to $55 or $660 a year.

Her job is 5 miles from home and she uses public transport. She can’t afford the monthly pass, so she pays $1.25 per trip which adds up to $625 a year. Her food comes to $900 a year; supplementary medical care $299 a year; incidentals, $600 a year. Total: $7,710 a year. This income is augmented by the Earned Income Tax Credit which is under attack.

We are citizens of the United States and are indeed blessed and fortunate to be in a land of agricultural wealth, with human and other resources of which we are justifiably proud. Although we suffer natural calamities—floods, droughts, and earthquakes—we are large enough so that by pooling our national resources we have been able to absorb such shocks better than most nations. We have indeed been blessed to not be in permanent drought as is an increasing band of land in the sub-Sahara region or in the frozen tundra of Russia. We are a wealthy nation.

Why then, should Geraldine Mason, who wants to work and does work; who is a responsible mother and a tax-paying citizen, pushed up against an impossible wall to
scale? What do we, the lawmakers and the law implementers tell Geraldine Mason how to survive in this economy?

“Between 1979 and 1991, families headed by people under 25 years old saw their incomes drop $7,200 a year from $24,000 to $16,800; the better educated 25–34-year-olds suffered an income drop of $4,000 going from $35,600 to $31,500 during this period. There are about 20 million workers in the United States in Betty Mason’s situation. We know that at differing levels, college graduates, postgraduate, and professionals are beginning to feel the simultaneous crunch of income maldistribution, loss of jobs, and job insecurity.

On maldistribution, 1 percent of American households, with net worth of at least $2.3 million each, owns nearly 40 percent of the Nation’s wealth; the top 20 percent of American households, with net worth of $180,000 or more, have more than 80 percent of the Nation’s wealth; this figure is the highest of all industrial nations.

At the bottom end of the scale, where Ger-aldine Mason is stuck, and many single, di-verced women with children are, the lowest earning 20 percent of Americans earn only 5.7 percent of the Nation’s wealth, 1 percent of American graduates, postgraduate, and professionals make full partners in this economic security.


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Here is another worker: Susan Casavant lives in Vermont, in Congresswoman SANDERS’ district. She presented her story to the Progressive Caucus panel at the March 8, 1996, hearing on “The Silent Depression, the Collapse of the American Middle Class” on her work in Vermont. She states

I feel as if I am a good worker, I’ve been quite an employed responsibility and honest work. I have learned how to work in almost every department. Other employ-ees depend on me in order to receive their work, believe me pull a heavy load, both in and out of work. I have such a hard time making a living because Peerless Clothing pays poverty-level wages!! Why?

She makes $5.25 an hour, up 25 cents an hour from the $5-an-hour starting wage.

. . . . I work 40 hours per week plus over-time and Saturdays. My less than $200 a week paycheck makes me feel like a fool. It’s still hard to make a good living. I still live with my family because I can’t afford to pave my own road. . . . The insurance provided to us costs $470 per week for me and my son, that’s about $168 per month and the worst part is that it doesn’t cover half of the things me and my son need. I never thought my future could look so uninviting, I am twenty-two years old and I still depend on my parents; my mother cares for my son be-cause I can’t afford a good, safe day-care.

I live in America, the land of freedom, so how do big companies like these get away with bringing down honest people and their homes? I would like to live in secu-rity instead of debt.

When Susan Casavant and other workers tried to form a union, the company said that it would close or move.

What does the 104th Congress say to her?

This is what we can say: American workers need a raise. American workers, who are among the world’s most efficient and produc-tive, need to have some sense that they can learn, work, and make a living wage. This Na-tion needs hard-working, skilled workers who needs their work and needs their buying power.

In this Congress, I am proud to be a co-sponsor of three bills raising the minimum wage. Under Mr. SANDERS’ H.R. 363, the minimum wage to $4.70 an hour; Mr. SANDERS’ H.R. 363 which raises the minimum wage to $5.50, and Mr. SABO’s H.R. 619, which raises the minimum wage to $6.50 an hour. It is clear from the rosie picture of our econo-my that the growth is on the increasing bowed back of our increasing pool of low-paid workers—a disproportionate share of whom are women.

Franklin D. Roosevelt understood the ex-prience, the lives, the misery of the people struggling to find work and income in the 1930’s. As Roosevelt led this country to vic-tory by successfully calling on our sense of na-tional pride, by calling on our sense of fair-ness and democracy, our sense of justice, he was proud to declare in 1944, and much of the Nation’s wealth, he hear him declare, his Economic Bill of Rights.

Section 2 of this declaration states the U.S. policy of “The right to earn enough to provide for an adequate living.”

Space limits from quoting the other sec-tions which gave Americans in 1944 and later, such a sense of empowerment and self-re-spect, empowerment and self-respect that we are now losing, and with it our sense of pride in ourselves and each other.

Twenty three of us in the 104th Congress can say and have said that we can make a liv-ing wage and that there can be jobs at decent wages for all who want to work and can work. This statement is embodied in H.R. 1050, A Living Wage, Jobs for All Act, which I was proud to introduce with 22 cosponsors; among them ELEANOR HOLMES NORTON. It will represent a new contract with our peo-ple—one that answers Geraldine Mason and Susan Casavant as to how they can have pride in their work and equitably in the benefits of our wealthy Nation.

During the 104th Congress many of the ideas can be developed, improved upon, sharpened, critiqued, and openly discussed around the country in public meetings, and by the end of the year brought together into a whole legislative package to be reflected in a new budget for the 105th Congress.

I respectfully urge my distinguished and my colleagues, and I serving in the 104th Congress bear witness to that fact, yet we have so much farther to go.

On Friday March 8th, women across the globe celebrated International Women’s Day. A day which was set aside to mark the begin-nning of the struggle for equality and rights for women in traditional countries, it was a day filled with celebration and protest. Celebration for the many economic, social, and political obsta-cles we have successfully overcome, and pro-test for the ongoing inequalities and barriers that continue to deny us full participation in so-cial, cultural, and economic life. In America’s Women’s Day went literally without notice. Did we fail to recognize this day because we have con-quered all the obstacles or is it because we have fallen down on the job?

Mr. Speaker, I submit to you that in spite of the strides that have been made, until we eradicate pay inequities, the glass ceiling, sexual discrimination and the myriad of other problems facing working women, our battle is far from over.

A recent report from the U.S. Department of Labor’s Glass Ceiling Commission shows that women represent over half of the adult pop-u-lation and nearly half of the work force in America. Women compose half of the work force, yet we remain disproportionately, clus-tered in traditional “female” jobs with lower pay and fewer benefits. These studies show that women who make the same career choices as men and work the same hours as men often still advance more slowly and earn less.

Women remain underrepresented in most nontraditional professional occupations as well as in college theaters. Census Bureau.

Women make up 23 percent of lawyers but only 11 percent of partners in law firms, women are 48 percent of all journalists, but hold only 6 percent of the top jobs in journalism, women physicians earned 53.9 percent of the wages of male physicians, women are only 8.6 percent of all engineers, women are 3.9 percent of airplane pilots and navigators; and in dentistry, women are over 99.3 percent of hygienists, but only 10.5 percent of dentists.

The report found that although the pay gap for women narrowed significantly in fields such as computer analysts, it widened in others. They show that in 1993 women earned only 72 percent of the wages paid to men. This wage gap is worse for women of color. White women earn 72 cents per every dollar made by white men while African-American women earn 64 cents and Latino women earn a mere 54 cents.

Mr. Speaker, working women in this country have been fighting for equal pay for equal work for over 20 years now, and although the gap is closing, it is not happening at the rate any of us should be pleased with. When this
government exposes civil or human rights violations in other countries, we are quick to impose sanctions to encourage people to remedy their behavior, yet when companies within our own borders continue to violate these same rights, we turn our heads, and say, “these are business decisions.” Well, how long will it take before working mothers can actually support their children, without the extra assistance from family, or government.

In closing, I would thank to Rep. NORTON for allowing me the opportunity to speak on this issue.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

REPUBLICAN PRIMARIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I rise this evening to talk about a couple of Republican Presidential candidates who are not making the polls and have not just won in California and other States. Of course, the gentleman who has done that is Bob DOLE. But I wanted to talk a little bit tonight about two friends, because I think that they have a great deal to offer the Republican Party and to the Nation, and I think it would be very unwise for our party and for the leadership that will be emerging from the convention in my hometown in San Diego to ignore either these candidates or the many millions of people whom they represent.

Mr. Speaker, those two candidates are my great friend and near-seat mate from California [Mr. DORIAN], who sits on the Armed Services Committee with me and whom I have endorsed for President, and another good friend, Pat Buchanan who has made a very spirited run at the Presidential nomination and not quite made it, but, nonetheless, has, I think, touched a nerve with many, many Americans and attracted many Americans to his agenda.

Let me start off by saying, Mr. Speaker, that I listened to my father in the past talk to me about political smear campaigns and how people were denigrated by the press, by the liberal media, to the point where they had no chance of winning an election. I remember him first showing me those evidences of such campaigns back in the Barry Goldwater days when Barry was denounced as someone who would get us into nuclear war, and was unfit to serve in the White House, and was supposed to be a very dangerous person. After he concluded an excellent career in the Senate, he was then regarded by the same pundits and liberal media people as a, quote, conservative statesman, but in those days he was bashed as well.

And I noticed that Pat Buchanan has taken a lot of bashing, and I think very unfairly, because I look at his positions with respect to free trade. He opposes President Clinton's NAFTA, so there is something wrong with that position from the liberal media standpoint. He supports the right to life of unborn children, a traditional Republican opinion and position, and of course that is opposed by the liberal media. He supports a strong military, and of course that is opposed by the liberal media which watched with dismay as President Reagan's strong military posture dismantled the Soviet Union and ended the Cold War.

Mr. Speaker, on a personal note Pat and Shelly are wonderful people. They are fine people, they care about the Nation, they have great compassion for their fellow Americans. And to see the media come out and imply that Pat Buchanan was anti-Semitic, and when you ask why they thought that, they said, well, it is the way he pronounces terms like Goldman Sachs. I thought, my gosh, we live in an age where the media can denounce somebody and call them names because of the way they pronounce a word. I have not seen McCarthyism, but I guess that is probably as close as we will come in these times.

So, Pat Buchanan has a great deal to offer the Republican Party. He really has the traditional Republican positions of fair trade, not free trade. Remember that, when John Kennedy offered terms like Americans. And to see the media come out and imply that Pat Buchanan was anti-Semitic, and when you ask why they thought that, they said, well, it is the way he pronounces terms like Goldman Sachs. I thought, my gosh, we live in an age where the media can denounce somebody and call them names because of the way they pronounce a word. I have not seen McCarthyism, but I guess that is probably as close as we will come in these times.

So, Pat Buchanan has a great deal to offer the Republican Party. He really has the traditional Republican positions of fair trade, not free trade. Remember that, when John Kennedy offered terms like Goldman Sachs. I thought, my gosh, we live in an age where the media can denounce somebody and call them names because of the way they pronounce a word. I have not seen McCarthyism, but I guess that is probably as close as we will come in these times.

There was a $3 billion trade surplus over Mexico before NAFTA. Today there is a $15 billion trade deficit. That means billions of dollars gone that would have been coming to Americans who are working in America making and selling weapons to Libya and other nations. So Pat Buchanan has traditional Republican principles, and I think it is a tragedy that he was smeared so thoroughly by the American media. I hope that Bob DOLE will open wide his party door and the door to the convention to Pat and to my other great friend, the gentleman from California [Mr. DORIAN].
Mr. HUNTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. C ANADY of Florida) and to include extraneous matter:)

Mrs. MEEK of Florida.

Mr. UNDERWOOD.

Mr. HAMILTON in three instances.

Mr. Wise.

Mr. HINCHLEY.

Mr. POSHARD.

Mr. SABO.

Ms. SCHROEDER.

Mr. FIELDS.

Mr. BRYANT of Texas.

Mr. HALL of Texas.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. ROBERTS.

Mr. HORN.

Mr. BAKER of California.

Mr. FRANKS of New Jersey.

Mr. SOLOMON.

Mr. WALSH.

Mr. FOX of Pennsylvania.

Mr. MARTINI.

Mr. MCKEON.

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. RAMSTAD.

Mr. HASTINGS of Washington.

Mr. GILLMOR.

Ms. VELÁZQUEZ.

Ms. DANNER.

Mr. KOLBE.

Mrs. MORELLA.

Mr. HALL of Texas.

Mr. BARCIA.

Ms. SLAUGHTER.

Mr. HOSTETTLER.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, March 28, 1996, 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:

2301. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a report on laboratories designated as eligible to participate in the Department's Laboratory Revitalization Demonstration Program, pursuant to Public Law 104-106, section 2892(d) (110 State, 590), to the Committee on National Security.

2302. A letter from the Secretary of Labor, transmitting a report entitled "Core Data Elements and Common Definitions for Employment and Training Programs," pursuant to Public Law 102-367, section 404(a) (106 Stat. 1055), to the Committee on Economic and Educational Opportunities.

2303. A letter from the Secretary of Energy, transmitting the Department's annual report for the strategic petroleum reserve, covering calendar year 1995, pursuant to 42 U.S.C. 6240(a); to the Committee on Commerce.

2304. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2305. A letter from the Administrator, U.S. Small Business Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2306. A letter from the Secretary, Naval Sea Cadet Corps, transmitting the annual audit report of the Corps for the year ended December 31, 1995, pursuant to 36 U.S.C. 1101(39) and 1103; to the Committee on the Judiciary.

2307. A letter from the Secretary of Transportation, transmitting a study on innovative financing available under the Airport Improvement Program, pursuant to 49 U.S.C. 47101 note; to the Committee on Transportation and Infrastructure.

2308. A letter from the Deputy Administrator, General Services Administration, transmitting a building project survey report for Research Triangle Park, NC, pursuant to 40 U.S.C. 610(b); to the Committee on Transportation and Infrastructure.

2309. A letter from the Chairman, Pension Benefit Guaranty Corporation, transmitting the 21st annual report of the Corporation, which includes the Corporation's financial statements as of September 30, 1995, pursuant to 29 U.S.C. 1308; jointly, to the Committee on Economic and Educational Opportunities and Ways and Means.

2310. A letter from the Secretary of Transportation, transmitting notification of the actions the Secretary has taken regarding security measures at Hellenikon International Airport, Greece, pursuant to 49 U.S.C. 40607(d)(3); jointly, to the Committee on Transportation and Infrastructure and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; with an amendment (Rept. 104-499 Pt. 1); Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 391. Resolution providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Health Act, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996; and to provide for a permanent increase in the public debt limit (Rept. 104-500). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 392. Resolution providing for the consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance and to extend benefits to the self-employed, and the Small Business Growth and Fairness Act of 1996; and to provide for other purposes (Rept. 104-501). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 393. Resolution waiving points of order against the conference report accompanying the bill (H.R. 2854) to modify the operation of certain agricultural programs (Rept. 104-502). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 394. Resolution waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104-503). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 842. Referred to the Committee on the Budget extended the period ending not later than March 29, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and subsequently referred as follows:

By Mr. MARTINI (for himself, Mr. MCCOLLUM, Mr. HYDE, and Mr. SCHUMACHER):

H.R. 3166. A bill to amend title 18, United States Code, with respect to the crime of false statement in a Government matter; to the Committee on the Judiciary.

By Mr. BAKER of Louisiana (for himself, Mr. KANJORSKI, Mr. MCCOLLUM, Mr. BACHUS, Mr. KING, Mr. HAYWORTH, Mr. CHRYSLER, Mr. CREMEANS, Mr. FOX, Mr. METCALF, Mr. WELLER, Mr. LAFALCE, Mr. ORTON, and Mr. BENTSEN):

H.R. 3167. A bill to reform the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking and Financial Services.

By Ms. DI LAURO (for herself, Mr. GEPHARDT, Mr. BONIOR, and Mr. FAZIO of California):

H.R. 3168. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 3169. A bill to amend the Job Corps program under the Job Training Partnership
Act to ensure a drug-free, safe, and cost-effective job Corps, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. LANTOS of California; to the Committee on Ways and Means, 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. SHAYS, and Mr. REED; H.R. 3174: A bill to modify various Federal health programs to make available certain services to women who are members of racial or ethnic minority groups, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, 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. ENGEL, for himself, Mrs. MOLINARI, Mr. LANTOS, Mr. PORTER, Mr. MORAN, Mrs. KELLY, Mr. BONGIORNO, Mr. MILLER of California, and Mr. ROHRBACHER: H. Con. Res. 155. Concurrent resolution concerning human rights and in support of a resolution of the crisis in Kosovo; to the Committee on International Relations.

By Ms. DE LAURO: H. Con. Res. 156. Concurrent resolution expressing the sense of the Congress regarding research on the human papillomavirus and its relation to cervical cancer; to the Committee on Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

211. By the SPEAKER: Memorial of the Senate of the State of Kansas, relative to recognition of the 100th anniversary of the Kansas State Legislature; to the Committee on Administration of Government.

212. By Mr. HUFF: Memorial of the Senate of the State of Kentucky, relative to recognition of the 200th anniversary of the Commonwealth of Kentucky; to the Committee on Appropriations.

213. By Mr. SenseNBRENNER (for himself, Mr. GELENBERG, Mr. TIERNEY, Mr. PAUL, Mr. CUNNINGHAM, Mr. CASTLE, Mr. MILLER of Florida, Mr. THOMPSON, Ms. ROYBAL-CARTER, and Mr. SMITH of Nebraska): Under clause 4 of rule XXII, memorials were added to public bills and resolutions as follows:

H.R. 573: Mr. Frank of Massachusetts.

H.R. 820: Mr. FLAKE, Mr. GRAHAM, Mr. SISKIN, Mr. ACKERMAN, Mr. SCHUMER, Ms. LOFGREN, Ms. PRYCE, Mr. SHAYS, and Mr. SERRANO.

H.R. 940: Mr. BRYANT of Texas.

H.R. 957: Mr. LATOURETTE.

H.R. 1023: Mr. GILCHREST, Mr. CHERLIEY, Mr. TAYLOR of North Carolina, Mr. YOUNG of Florida, Mr. CLAYTON, Mr. DELAURA, Mr. BARDI, Mr. MALDONADO, Mr. BACON, Mr. BURZA, Mr. BALDACCI, Mr. LUCAS, and Mr. MYERS of Indiana.

H.R. 1127: Mr. POMEROY.

H.R. 1363: Mr. BALLANGER, Mr. BASS, Mr. BURR, Mr. CHERLIEY, Mrs. CHENOWETH, Mr. CREMEANS, Mr. TAYHRT, Mr. WELDON of Florida, Mr. MCTOSH, and Mr. JONES.

H.R. 1386: Mr. BARCIA of Michigan, Mr. CLEMENT, and Mr. STEINHOLM.

H.R. 1406: Mr. ABERCROMBIE, Mr. MARTINI, and Mr. THORNBERRY.

H.R. 1462: Mr. BALDACCI, Mr. FROST, Ms. MOLINARI, Mr. FRAZER, Mr. FALEOMAVAEGA, Mr. CLAY, and Ms. MCKINNEY.

H.R. 1484: Mr. ABERCROMBIE.

H.R. 1496: Mr. FRANKS of New Jersey.

H.R. 1502: Ms. HARMAN.

H.R. 1612: Mr. FIELDS of Texas, Ms. JACKSON-LEE, and Mr. STOCKMAN.

H.R. 1776: Mr. GINGRICH, Mr. CAMPBELL, Mr. BERMAN, Mr. KENNEDY of Rhode Island, and Ms. DEUTSCH.

H.R. 1802: Mr. QUINN.

H.R. 1810: Mr. MARTINI.

H.R. 1863: Mr. BRYANT of Texas and Mr. ANDREW.

H.R. 1883: Mr. ZIMMER.

H.R. 2003: Mr. FILNER.

H.R. 212: Mr. WYN.

H.R. 219: Ms. WOOLSEY and Mr. SANDERS.

H.R. 2971: Ms. JACKSON-LEE.

H.R. 2270: Mr. COX.

H.R. 2277: Mr. CRAMER.

H.R. 2510: Mr. MARTINI.

H.R. 2579: Ms. GIBBONS.

H.R. 2589: Mr. BILBRAY.

H.R. 2746: Mr. MANTON, Mr. FOGLIETTA, and Mr. RUSH.

H.R. 2856: Mr. MARTINI and Mr. MCNULTY.

H.R. 2865: Mr. REDENHOUR and Mr. ROBERTS.

H.R. 2925: Mr. STEINHOLM and Mr. VOLKMER.

H.R. 2927: Mr. MOORHEAD and Mr. LEWIS of California.

H.R. 2936: Mr. COOLEY and Mr. TATE.

H.R. 2974: Mr. FOX.

H.R. 2976: Mr. BALDACCI, Mr. CALVERT, Mr. CHAMBLLIS, Mr. CRAPO, Mr. DEUTSCH, Mr. DUNCAN, Ms. MCKINNEY, Ms. MOLINARI, and Ms. RIVERS.

H.R. 2994: Mr. MCCOLLUM, Mr. GUNDERSON, and Mr. BROWN of California.

H.R. 3002: Mr. EHLERS.

H.R. 3004: Mr. PETTENSON of Minnesota, Mr. NEY, Mr. DEUTSCH, Mr. BILBRAY, Mr. GINTER, and Mr. EHLERS.

H.R. 3024: Mr. HEFLEY, Mr. DELLUMS, Mr. SMITH of New Jersey, Mr. BARRIA of Michigan, Mrs. MINK of Hawaii, Mr. FRAZER, Mr. FRANK of Massachusetts, Mr. MANTON, and Mr. MATSUI.

H.R. 3045: Mr. RAHAL.

H.R. 3048: Mr. CASTLE, Mr. CUNNINGHAM, and Mr. WAMP.

H.R. 3050: Mr. BARRIA of Michigan and Ms. KAPUR.

H.R. 3059: Mr. BARRETT of Wisconsin, Mr. FOGLIETTA, Mr. FRAZER, Mr. FROST, Mr. JEFFERSON, Mr. KLECKZIA, Mr. LIPINSKI, Mr. LOFGREN, Ms. MCKINNEY, Mr. MILLER of California, Ms. RIVERS, Mr. THOMPSON, Mr. WAXMAN.

H.R. 3114: Mr. NEAL of Massachusetts, Mrs. JOHNSON of Connecticut, and Mr. FOSBURG.

H.R. 3118: Mr. ACKERMAN, Mr. GREEN of Texas, and Mr. CRAMER.

H.R. 3120: Mr. GEENE of Texas, Mr. CLAYTON, Mr. ENSLING, Mr. LOFGREN, Mr. GONZALEZ, Mr. CALVERT, Mr. HAYES, Mr. Sloat, Mr. MONTGOMERY, Mrs. KELLY, Mr. ABERCROMBIE, Mr. FROST, Mr. FORBES, Mr. TALE, Mr. ROBERTS, Mr. METCALF, Mr. BRYANT of Texas, and Mr. Hunter.
March 27, 1996

CONGRESSIONAL RECORD — HOUSE

H. R. 3149: Mr. HANCOCK.
H. J. Res. 97: Mr. WISE.
H. J. Res. 192: Mr. WHITFIELD, Mr. BILBRAY, and Mr. ROSE.
H. Con. Res. 47: Mr. CONYERS, Mr. CALVERT, Mr. EHRlich, Mr. HANCOCK, Mr. MCNULTY, Mr. HENNIE, Mr. GREEN of Texas, Mr. WELDON of Pennsylvania, Mr. TRAFICANT, and Mr. YATES.
H. Res. 348: Mr. MCCOLLUM and Mr. GOODLING.
H. Res. 374: Mr. MARCH, Mr. FREILINGHUSEN, Mr. COBLE, Mr. HUNTER, Mr. PORTER, Mr. MARTIN, Mrs. CUBIN, Mr. NETHERCUTT, Mr. CALVERT, Mr. EHRlich, Mr. HANCOCK, Mr. MCNULTY, Mr. HENNIE, Mr. GREEN of Texas, Mr. WELDON of Pennsylvania, Mr. TRAFICANT, and Mr. YATES.
H. Res. 378: Mrs. MUEY of Kansas, Mr. ENGELS of Pennsylvania, Mr. BATeman, Mr. WOLF, MS. NORTON, MR. DELLUMS, Mr. CALVERT, MR. BERNAN, and MS. PELosi.

PETITIONS, ETC.

Under clause 1 of rule XCV, petitions and papers were laid on the Clerk's desk and referred as follows:

69. The SPEAKER presented a petition of the Transportation Policy Board of the Abilene Metropolitan Planning Organization, Abilene, TX, relative to the issues of appropriate taxation and adequate provision of transportation infrastructure, which was referred jointly to the Committees on Transpor-

AMENDMENTS

Under clause 6 of rule XCVIII, proposed amendments were submitted as follows:

H.R. 3103
Offered by: Mr. DINGELL
AMENDMENT No. 2. Strike all after the en-
acting clause and insert the following:

SECTION 1 SHORT TITLE

This Act may be cited as the “Health Insurance Reform Act of 1996”.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

TABLE OF CONTENTS OF TITLE

Sec. 100. Definitions.
SUBTITLE A—GROUP MARKET RULES
Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

SUBTITLE B—INDIVIDUAL MARKET RULES
Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual mar-
ket reforms.

Sec. 113. Definition.

SUBTITLE C—COBRA CLARIFICATIONS
Sec. 121. Cobra clarification.

SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES
Sec. 131. Private health plan purchasing cooperatives.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS
Sec. 141. Applicability.
Sec. 142. Enforcement of standards.

SUBTITLE F—MISCELLANEOUS PROVISIONS
Sec. 191. Health coverage availability study.
Sec. 192. Effective date.

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES
As used in this title:

I. BENEFICIARY.—The term “beneficiary” has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)).

2. EMPLOYEE.—The term “employee” has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)).

3. EMPLOYER.—The term “employer” has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

4. EMPLOYEE HEALTH BENEFIT PLAN.—

(A) In general.—The term “employee health benefit plan” means any employee welfare benefit plan, group health plan, or church plan (as defined under paragraphs (1), (3), and (30) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3))), that provides for or pays for health benefits (as such provider and hospital benefits) for participants and beneficiaries—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

C. ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(x) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(x) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

5. FAMILY.—

(A) IN GENERAL.—The term “family” means an individual, the individual’s spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term “child” means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

6. GROUP HEALTH PLAN.

(A) IN GENERAL.—The term “group health plan” means any contract, policy, certificate or other arrangement offered by a health plan issuer or other group purchaser that provides or pays for health benefits (such as pro-

viding and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(x) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

7. GROUP PURCHASER.—The term “group purchaser” means any person (as defined under paragraph (9) of section 3 of the Em-

ployee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that pur-

ches or pays for health benefits (such as providing and hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan.

A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

8. HEALTH PLAN ISSUER.—The term “health plan issuer” means any entity that is licensed (prior to or at the time of enactment of this Act) by a State to offer a group health plan or an individual health plan.

9. HEALTH STATUS.—The term “health status” includes, with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of uninsurability (including conditions arising out of acts of domestic violence), or disability.

10. PARTICIPANT.—The term “participant” has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

11. PLAN SPONSOR.—The term “plan sponsor” has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

12. SECRETARY.—The term “Secretary”, unless specifically provided otherwise, means the Secretary of Labor.

13. STATE.—The term “State” means each of the several States, the District of Colum-
bia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SUBTITLE A—GROUP MARKET RULES

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE

In general—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) A health plan issuer offering a group health plan may not decline to offer group health coverage to a group purchaser desiring to purchase such coverage; and

(B) An employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 1009(i)).
(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall pre-
vent an employee health benefit plan or a health plan issuer from establishing pre-
miums for or otherwise requiring applicable copayments or deductibles in return for
adherence to programs of health promotion and disease prevention.

(3) LIMITATION ON PREEXISTING

(b) PREEXISTING LIMITATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health
plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers;

(B) the health plan issuer can demonstrate to the applicable certifying authority (as de-
defined in section 1432(d)), if required, that its

(3) R ULES OF CONSTRUCTION.—Nothing in

(1) IN GENERAL.—In any case in which a health plan issuer decides to discontinue of-
fering a particular type of group health plan.

(2) N ETWORK PLAN .—As used in paragraph (1)

SEC. 102. GUARANTEED RENEWABILITY

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to
prevent a State from requiring health plan issuers offering group health plans to ac-
tively market such plans.

(2) INVOLUNTARY OFFER OF GROUP

(1) G EOGRAPHIC LIMITATIONS.ÐA network

HEALTH PLANS.ÐNothing in this section shall
be construed to require a health plan issuer to offer coverage to additional group
purchasers.

Such a subscriber shall be prohibited from offering coverage under this paragraph for a
6-month period or until the health plan issuer obtains approval from the applicable cer-
tifying authority (as defined under applicable State law), or if not so defined, an employer with not more than 50 employees).

(2) FIRST-COME-FIRST-SERVED.ÐA health plan issuer offering a group health plan is
only eligible to exercise the limitations pro-
vided for in paragraph (1) if the health plan issuer is offering group health plans to

(2) C REDITING OF PREVIOUS QUALIFYING

HEALTH PLANS.Ð

(1) PARTICULAR TYPE OF GROUP HEALTH

PLANS.—

(1) IN GENERAL.—An employee health bene-

fit plan offering a group health plan shall be re-
newed or continued in force by a health plan issuer at the option of the partici-

pant, or where such plan has not received

(2) N ETWORK PLAN .Ð

As used in paragraph (1)

(2) N ETWORK PLAN .—

As used in paragraph

(1)(B) the health plan issuer can demonstrate to the applicable certifying authority (as de-
defined in section 142(d)) that the health plan issuer has ade-
quate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only
eligible to exercise the limitations provided for in paragraph (1) if the health plan
issuer is offering group health plans under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid selection.

(3) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to
prevent a State from requiring health plan issuers offering group health plans to ac-
tively market such plans.

(2) INVOLUNTARY OFFER OF GROUP

HEALTH PLANS.Ð

(1) IN GENERAL.—In any case in which a health plan issuer decides to discontinue of-
fering a particular type of group health plan.

(2) N ETWORK PLAN .—As used in paragraph (1)

SEC. 102. GUARANTEED RENEWABILITY

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to
prevent a State from requiring health plan issuers offering group health plans to ac-
tively market such plans.

(2) INVOLUNTARY OFFER OF GROUP

HEALTH PLANS.Ð

(1) IN GENERAL.—In any case in which a health plan issuer decides to discontinue of-
fering a particular type of group health plan.

(2) N ETWORK PLAN .—As used in paragraph (1)

SEC. 102. GUARANTEED RENEWABILITY

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to
prevent a State from requiring health plan issuers offering group health plans to ac-
tively market such plans.

(2) INVOLUNTARY OFFER OF GROUP

HEALTH PLANS.Ð

(1) IN GENERAL.—In any case in which a health plan issuer decides to discontinue of-
fering a particular type of group health plan.
the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary of Labor, the provisions of employee health benefit plan documents to verify previously qualifying coverage with respect to a participant or beneficiary is effectively discharged when the health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(a) the dates on which the participant or beneficiary is effectively discharged;

(b) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan;

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) IN GENERAL.—(A) Previous qualifying coverage.—The term "previous qualifying coverage" means the period beginning on the date

(i) if a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) if a participant or beneficiary is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established by a State or political subdivision of a State, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) Limitation or exclusion of benefits relating to treatment of a preexisting condition.—The term "limitation or exclusion of benefits relating to the treatment of a preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) State flexibility.—Nothing in this section shall be construed to preempt State laws that

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are less than those provided for under this section;

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of preexisting coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3), unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(2) EXCEPTION.—With respect to the requirements of paragraph (1), any information or summary of benefits and procedures that may affect changes in premium rates and the factors that may affect changes in premium rates shall be provided to participants and beneficiaries of their rights and obligations under the group health plan.

(3) Disclosure of information to participants and beneficiaries.—In the case of a participant, beneficiary or family member who

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status of a family member who

(A) is an employee health plan issuer or a health plan issuer offering a group health plan and may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved;

(C) late enrollees.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except that benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may not be excluded more than 18 months beginning on the date of coverage under the plan.

Affiliation periods.—With respect to a participant or beneficiary who otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the health plan or a health plan offering a group health plan may also use alternative methods to address adverse selection as approved by the Secretary of Labor (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(c) Preexisting conditions.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the date of the coverage (without regard to any waiting period).

(3) State flexibility.—Nothing in this section shall be construed to preempt State laws that

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are less than those provided for under this section;

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of preexisting coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3), unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(2) Disclosure of information to participants and beneficiaries.—In the case of a participant, beneficiary or family member who

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status of a family member who

(A) is an employee health plan issuer or a health plan issuer offering a group health plan and may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved;

(C) late enrollees.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except that benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may not be excluded more than 18 months beginning on the date of coverage under the plan.

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided," and

(B) by adding at the end of the following new sentence: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, the health plan or health insurance issuer providing such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans or health insurance issuers may provide notice of material reductions in covered services or benefits.

Plan description and summary.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office of the individual responsible for financing benefits," after "type of administration of the plan;" and

(B) by inserting "including the name of the office, contact, or title of the individual at the Department of Labor through which participants..."
SECTION 110. INDIVIDUAL HEALTH PLAN PORTABILITY

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (2) may not, with respect to an applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED. A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if such issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair and equal opportunity to enroll in the plan and avoid risk selection.

(b) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be required to provide for whole or partial offering to individuals of an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

(c) APPLICABLE OF CAPACITY LIMIT. —

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED. In any case in which a health plan issuer ceases to enroll individuals; and

(2) TERMINATION OF INDIVIDUAL HEALTH PLAN. —

(A) the health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer if

(a) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the discontinuation of the plan;

(b) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the discontinuation of the plan; and

(c) the health plan issuer offers a replacement plan that is in effect on, or enacted after, the date of enactment of this Act, the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing for affordable health care coverage for those individuals described in sections 110 and 111.

(b) TERRITORY OF ELIGIBLE INDIVIDUAL. —

(1) IN GENERAL.—To the extent to which a State law or program provides coverage for preexisting conditions (as defined in section 103(e)(4)) that were covered under the individuals’ previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(c) TREATMENT OF NETWORK PLANS. —

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer that offers a network plan on the date of enactment of this Act shall not be required to offer a replacement plan that is in effect on, or enacted after, the date of enactment of this Act, the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing for affordable health care coverage for those individuals described in sections 110 and 111.

(2) MARKETING OF PLANS. —Nothing in this section shall prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

(b) MARKET REQUIREMENT. —

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be required to provide for whole or partial offering to individuals of an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

(c) APPLICABLE OF CAPACITY LIMIT. —

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED. In any case in which a health plan issuer ceases to enroll individuals; and

(2) TERMINATION OF INDIVIDUAL HEALTH PLAN. —

(A) the health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer if

(a) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the discontinuation of the plan; and

(b) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(d) PROHIBITION ON MARKET REENTRY. —In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(e) TREATMENT OF NETWORK PLANS. —

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer that offers a network plan on the date of enactment of this Act shall not be required to offer a replacement plan that is in effect on, or enacted after, the date of enactment of this Act, the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing for affordable health care coverage for those individuals described in sections 110 and 111.

(2) MARKETING OF PLANS. —Nothing in this section shall prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

(b) MARKET REQUIREMENT. —

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be required to provide for whole or partial offering to individuals of an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

(c) APPLICABLE OF CAPACITY LIMIT. —

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED. In any case in which a health plan issuer ceases to enroll individuals; and

(2) TERMINATION OF INDIVIDUAL HEALTH PLAN. —

(A) the health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer if

(a) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the discontinuation of the plan; and

(b) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(d) PROHIBITION ON MARKET REENTRY. —In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(e) TREATMENT OF NETWORK PLANS. —

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer that offers a network plan on the date of enactment of this Act shall not be required to offer a replacement plan that is in effect on, or enacted after, the date of enactment of this Act, the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing for affordable health care coverage for those individuals described in sections 110 and 111.

(2) MARKETING OF PLANS. —Nothing in this section shall prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.
notified is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within 12 months after the period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making final determination under subsection (a).

(b) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the Secretary of Health and Human Services, and

(2) the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making final determination under subsection (a).

(c) AUTHORITY OF SECRETARY.—Notwithstanding section 111 or any other provision of law, the Secretary shall, within the 12-month period beginning on the date of enactment of this Act—

(1)mak a determination under subsection (a) prior to January 1, 1998.

(2) make a determination under subsection (a) prior to January 1, 1998.

(3) ENFORCEMENT.—Notwithstanding any other provision of law, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(a) BILLING OF CHANGES.—Not later than 9 months after the date of enactment of this Act—

(1) the Secretary of Health and Human Services, and

(2) the Secretary of Health and Human Services, and

(3) the Secretary of Health and Human Services, and

(4) the Secretary of Health and Human Services, and

(b) EFFECTIVE DATE.—The amendments made by this Act shall be effective on the date of enactment of this Act.
section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act, and section 4201 of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part of the terms of the amendments made by this section.

**Subtitle D—Private Health Plan Purchasing Cooperatives**

**SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.**

(a) **DEFINITION.**—As used in this title, the term ‘health plan purchasing cooperative’ means a group of individuals or employers that, acting individually and in conjunction with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) **CERTIFICATION.**

(1) **IN GENERAL.**—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section, each group appropriate notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, (except as provided in subparagraph (B)), shall permit such cooperative to operate.

(2) **STATE REFUSAL TO CERTIFY.**—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(c) **BOARD OF DIRECTORS.**

(1) **IN GENERAL.**—Each health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this section, a cooperative may be considered to be domiciled in the State in which most of the members of the cooperative reside.

(d) **MEMBERSHIP AND MARKETING AREA.**

(1) **MEMBERSHIP.**—A health plan purchasing cooperative may establish limits on the maximum number of employers who may become members of such cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as a member of the cooperative, and, on the basis established by the State to ensure equitable access to the cooperative.

(2) **MARKETING AREA.**—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries shall be based on the basis of health status of the populations that reside in the area.

(e) **DUTIES AND RESPONSIBILITIES.**

(1) **IN GENERAL.**—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple unaffiliated health plans, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative.

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area;

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) **PERMISSIBLE ACTIVITIES.**—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits only for the purpose of negotiating with providers;

(E) negotiating with health care providers and health plan issuers;

(f) **LIMITATIONS ON COOPERATIVE ACTIVITIES.**—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing or certification of health care providers,

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of each employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) **LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.**

(1) **IN GENERAL.**—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) **HEALTH PLAN ISSUERS.**

(A) **RATING.**—With respect to a health plan issuer offering a group health plan or individual health plan, a health plan purchasing cooperative that meets the requirements of this section, State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) **EXCEPTION.**—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variation of premium rates among employers, plan sponsors, or individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new contract period that is in excess of that which would be permitted under State rating laws.

(C) **BENEFITS.**—Except as provided in subparagraph (B), a health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) providing alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new contract period that is in excess of that which would be permitted under State rating laws.

(D) **EXCEPTION.**—In those States that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) **RULES OF CONSTRUCTION.**—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives,

(2) otherwise require the establishment of health plan purchasing cooperatives,

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through such a cooperative; or

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the Secretary would not otherwise have to regulate health plan issuers or employer health benefit plans, or
(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 shall apply to health plans purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 191. APPLICABILITY.

(A) APPLICATION.—Nothing in this title shall be construed to prevent a State, or the Federal Government, from utilizing an enforcement plan filed by the State with the Secretary of Health and Human Services, to implement the provisions of this title.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to require a group health plan or an employee health benefit plan, the requirements or standards imposed hereunder, to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

(c) CONTINUATION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term “applicable certifying authority” means, with respect to—

(1) health plan issuers, the State insurance commissioner or official designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit plan, the Secretary.

(d) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1998, the Secretary shall prepare a report, concerning the effectiveness of the provisions of this Act, for the Congress.

Subtitle F—Miscellaneous Provisions

SEC. 192. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this title, the provisions of this title shall apply to plans offered, sold, renewed, in effect, or operated on or after January 1, 1997.

(b) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

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equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

``(B) EFFECTIVE DATE.Ó The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.Ó Subpart A of part II of subchapter N of chapter I is amended by inserting after section 297 the following new section:

``SEC. 297A. TAX RESPONSIBILITIES OF EXPATRIATION.

``(a) GENERAL RULES.Ó For purposes of this subchapter, the following rules shall apply:

``(1) MARK TO MARKET.Ó Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as if sold for its fair market value on the expatriation date for its fair market value.

``(2) RECOGNITION OF GAIN OR LOSS.Ó In the case of any sale under paragraph (2) of subchapter T of chapter 1 of subpart A of part I of chapter 1 of subchapter N of chapter 1 (except as otherwise provided by this title), any gain arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

``(3) EXCLUSION FOR CERTAIN GAIN.Ó The amount which would (but for this paragraph) be includable in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (a)(1) shall be treated in the same manner as an amount required to be includable in gross income.

``(4) PROPERTY CONTINUES TO BE TAXED AS UNITED STATES CITIZEN.Ó

``(A) IN GENERAL.Ó If an expatriate elects the application of this paragraph—

``(i) this section (other than this paragraph) shall not apply to the expatriate, but

``(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

``(B) LIMITATION ON AMOUNT OF ESTATE, GIFTS, TRANSFERS, AND GENERATION-SKIPPING TRANSFER TAXES.Ó The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value on the date immediately before the time of the transfer or death (taking into account the rules of paragraphs (2)).

``(c) REQUIREMENTS.Ó Subparagraph (A) shall not apply to an individual unless the individual—

``(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

``(ii) consents to the waiver of any right of the individual under any treaty of the Unit-
pension plans or similar retirement arrangements or programs.

(3) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

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

(A) Expatriate.—The term ‘expatriate’ means—

(i) any United States citizen who relinquishes his citizenship, or

(ii) any long-term resident of the United States who—

(1) ceases to be a lawful permanent resident of the United States (within the meaning of section 701(b)(6), or

(2) becomes treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

(B) Expatriation date.—The term ‘expatriation date’ means—

(i) a date on which the individual relinquishes United States citizenship, or

(ii) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

(C) Relinquishment of citizenship.—A citizen shall be treated as relinquishing his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 340(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1441(b)(5)).

(D) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in subparagraph (A), (1), (2), (3), or (4) of section 340(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1441(a)(1)-(4)).

(E) Date the individual is treated as not a resident of the United States for purposes of this section—

(i) the date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

(ii) the date on which the individual ceases to be a lawful permanent resident of the United States.

(iii) the date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

(iv) the date such individual becomes treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(F) Person treated as not held by a person.—

(i) the date on which the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(ii) the date such individual becomes treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(iii) the date such individual becomes treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(iv) the date such individual becomes treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(G) Date the individual became treated as a United States citizen for purposes of this section—

(i) the date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(ii) the date such individual becomes treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(iii) the date such individual becomes treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(iv) the date such individual becomes treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(H) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(I) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(J) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(K) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(L) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(M) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(N) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(O) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(P) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(Q) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(R) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(S) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(T) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(U) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(V) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(W) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(X) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(Y) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.

(Z) Date the individual ceases to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country for the taxable year under which such individual is treated as a resident of a foreign country.
Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

'(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES—(A) in subsection (a) shall not include from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expiration date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

Section 102(b)(6) is amended by adding at the end the following new sentence: "Any tax paid under section 877A for such year shall be treated as paid under section 877A as of the date on which the individual's citizenship is terminated, immediately following the date on which the individual's citizenship is terminated."
calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877(a)(10)), to whom the Secretary receives information under the preceding sentence during such quarter.

(e) Exception.—The Secretary may by regulation exclude an individual from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.

(b) Clerical Amendment.—The table of sections for such subpart A is amended by inserting, after section 6039E, the following new item:

``
Sec. 6039F. Information on individuals expatriating.
``

(c) Effective Date.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 221. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) In General.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

``SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

``(a) Notice of Certain Events.—

``(1) General rule.—On or before the 90th day after the due day as the Secretary may prescribe after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

``(2) Content of Notice.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

``(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

``(B) the identity of the trust and of each trustee and beneficiary or class of beneficiaries of the trust.

``(3) Reportable Event.—For purposes of this subsection—

``(A) In General.—The term `reportable event' means—

``(i) the creation of any foreign trust by a United States person, including a transfer by reason of death, and

``(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death.

``(4) Special Rule.—Section 6048 applies to any foreign trust, the determination of whether United States persons are required to provide information as the Secretary may prescribe to each United States person who is the owner of any portion of a foreign trust, and such other information as the Secretary may prescribe, and—

``(B) such trust furnishes such information as the Secretary may prescribe to each United States person who is the owner of any portion of such trust or who receives (directly or indirectly) any distribution from the trust.

``(2) Trusts Not Having United States Agent.—

``(A) In General.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person who is the owner of any portion of subpart E of part I of subchapter J of chapter 1 of such trust shall be determined by the Secretary.

``(B) United States Agent Required.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying the rules referred to in subparagraph (A) of clause (1) of section 6702 of the United States Code.

``(3) Contents of Notice.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

``(A) the name of such trust,

``(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

``(C) such other information as the Secretary may prescribe.

``(2) In General.—If applicable records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includable in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall apply if the facts to be subject to rules similar to the rules of subsection (b)(2)(B).

``(B) Application of Accumulation Distribution Rules.—For purposes of applying section 6661 in a case to which paragraph (A) applies, the applicable number of years for purposes of section 666(a) shall be ½ of the number of years the trust has been in existence.

``(D) Special Rules.—

``(1) Determination of Whether United States Person Receives Distribution.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is owned as of the record date by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

``(2) Domestic Trusts with Foreign Activities.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6671 if such trust has substantial activities, or holds substantial property, outside the United States.

``(3) Time and Manner of Filing Information.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

``(4) Modification of Return Requirements.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.

``SEC. 6677. FAILURE TO FILE INFORMATION RETURNS.

``(a) Civil Penalty.—In addition to any civil penalty provided by law, if any notice or return required to be filed by section 6048—

``(1) is not filed or is before the time provided in such section, or

``(2) does not include all the information required pursuant to such section or includes incorrect information,

``the Secretary shall have the power to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In addition, the penalty under this subsection with respect to any failure exceeding the gross reportable amount shall be treated as a tax penalty under this subsection with respect to certain foreign trusts.

``(b) Special Rules for Returns Under Section 6048(b).—In the case of a return required under section 6048(b)—

``(I) the person required to pay such penalty is a United States person,

``(II) the account of such person is a foreign financial account, and

``(III) such person is the owner of such foreign financial account,
"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and
"(2) subsection (a) shall be applied by substituting '25 percent' for '25 percent'.

(c) Gross Reportable Amount.—For purposes of subsection (a), the term 'gross reportable amount' means—
"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),
"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and
"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

(d) Reasonable Cause Exception.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

(e) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(f) Conforming Amendments.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11005, is amended by striking "or" at the end of subparagraph (U), and by striking the period at the end of subparagraph (V) and inserting ",or" and a comma, and by striking subparagraph (V) the following new subparagraph:

``(W) section 6048(b)(1)(B) (relating to foreign trust reporting).''

(2) Subsection (a) of section 6048(b)(1)(B) (relating to foreign trust reporting requirements), as amended by section 432(b), is amended by striking the item relating to section 6048 and inserting the following new item:

``Sec. 604 Information with respect to certain foreign trusts.''

(3) The table of sections for part I of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

``Sec. 6677 Failure to file information with respect to certain foreign trusts.''

(g) Effective Date.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 233. Foreign Persons Not To Be Treated as Owners Under Grantor Trust Rules.

(a) General Rule.—(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended as follows:

"(1) Grantor Trust Reporting.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in section 6048) occurring after the date of the enactment of this Act.

"(2) Grantor Trust Reporting.—The extent related to subsection (b) of section 6048, the amendments made by this section shall apply only to United States persons who are foreign persons beginning after the date of the enactment of this Act.

"(3) Reporting by United States Beneficiaries.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply only to the extent of United States persons receiving property after the date of the enactment of this Act.

"(4) Special Rules Applicable to Foreign Grantor Who Later Becomes a United States Person.—

"(A) In General.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section shall apply as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust.

"(B) Treatment of Undistributed Income.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) Residency Starting Date.—For purposes of this section, the residency starting date is the date on which the individual's residency started determined under section 6724(b)(2)(A).

"(3) Special Rules.—Except as otherwise provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(1) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(2) (paragraph (1) shall not apply for purposes of applying section 1296.

"(3) Special Rule Where Grantor is Foreign Person.—If—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1),

"(B) the property transferred to or held in trust by the grantor is not treated as attributable to the grantor by reason of section 643(a)(1) or 643(b).
"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person.

"(2) Any portion of the trust is transferred to a foreign trust, and in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under section 677 of this title, the term 'treat as owner of any portion of the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any country or possession to which such income, war profits, and excess profits taxes may be applicable."

"(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 667(d) is amended by striking such paragraph and inserting the following:

"(2) Section 665 is amended by striking subparagraph (B) thereof and inserting after that subparagraph the following new subparagraph:

"(B) any United States person not described in paragraph (A) of section 676A(b) may be necessary or appropriate to carry out the purposes of this Act in taxable years ending after such date."

"(c) TREATMENT OF LOANS FROM TRUSTS.—Section 676A(c)(1) and (d) are amended by striking the second sentence and inserting in lieu thereof the following new sentence:

"(2) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 676A(a) is amended to read as follows:

"(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 676A(a) is amended to read as follows:

"(1) INTEREST DETERMINED USING UNDISTRIBUTED NET INCOME.—The interest charge determined under this section with respect to any distribution shall be determined by the Secretary by applying the rates and the method under section 6621 applicable to underpayments of tax.

"(2) INTEREST DETERMINED USING UNDERPAYMENT TAXES.—The interest charge determined under this section with respect to any distribution shall be determined by the Secretary by applying the rates and the method under section 6621 applicable to underpayments of tax.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed net income year, and

"(ii) the aggregate undistributed net income.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed net income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution)."

"(d) DETERMINATION OF UNDISTROYED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, the undistributed net income from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(e) PERIODS BEFORE 1996—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.

"(f) ABUSIVE TRANSACTIONS.—Section 676A(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.

"(g) TREATMENT OF LOANS FROM TRUSTS.—Section 676A(c)(2) is amended by adding after such section the following new subsection:

"(3) Amounts described in subparagraph (A) with respect to any distribution shall be treated as reducing proportionately the undistributed net income for undistributed income years.
(A) CASH.—The term ‘cash’ includes foreign currencies and cash equivalents.

(B) RELATED PERSON.—

(I) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 13(h)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

(II) ALLOCATION.—If any person described in paragraph (I) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

(C) EXCLUSION OF TAX-EXEMPTS.—The term ‘United States person’ does not include any entity exempt from tax under this chapter.

(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan shall be disregarded for purposes of this title.

(2) AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ‘, or for purposes of paragraphs (c) and (d) shall apply to loans made by subsection (c) shall apply to loans made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(C) PENALTY.—In the case of any failure to file a return under section 6048(a) in the same manner as if such failure were a failure to file a return under section 6048(a) as of the close of the last taxable year before the date of the enactment of this Act.

CHAPTER 3—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(A) IN GENERAL.—Section 593 (relating to reserves for bad debts) is amended by adding at the end the following new subsections:

(I) TERMINATION OF RESERVE METHOD.—

(1) IN GENERAL.—The reserve method under subsection (c) shall apply to any taxable year beginning after December 31, 1995.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(2) REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(A) IN GENERAL.—Section 593 (relating to reserves for bad debts) is amended—

(i) the balance of the reserves described in section 585(c)(2)(A)(ii) of this subsection.

(ii) as so determined, shall be taken into account under paragraph (1) for such taxable year over the balance taken into account under paragraph (1) for the preceding taxable year—

the amount which would be the balance of reserves for losses on loans) is amended by adding at the end the following new subsections:

III. the amount of such adjustment.

II. the amount of such adjustment.

I. whether any other taxable year is a

(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term ‘residential loan’ means any loan described in clause (v) of section 7101(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

SEC. 226. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.

(I) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

D. foreign estate or foreign trust—

(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.

(II) CONFORMING AMENDMENT.—Paragraph (3) of section 7701(a) is amended to read as follows:

(3) FOREIGN ESTATE OR TRUST.—The term ‘foreign estate’ or ‘foreign trust’ means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, and

(B) at the election of the trustee of a trust, to taxable years beginning after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.

(I) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having been transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust."

(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE A BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer who applied paragraph (1) applied is not a bank (as defined in section 585), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserves described in paragraph (2)(B)(ii) in such taxable year over the balance taken into account ratably over the 6-taxable year period beginning with such taxable year.

(A) AMOUNT TO BE RECAPTURED IF RESIDENTIAL LOAN REQUIREMENT MET.—

(i) such taxable year shall be disregarded in determining—

(ii) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

(iii) the amount of such adjustment.

(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this paragraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term ‘residential loan’ means any loan described in clause (v) of section 7101(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

(B) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT SATISFIED.—In the case of any tax year beginning after December 31, 1995, or for the following taxable year—

(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

(ii) such taxable year shall be disregarded in determining—

(i) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

(ii) the amount of such adjustment.

(3) CONTINUATION OF APPLICABILITY OF RESIDENTIAL LOAN REQUIREMENT.

(A) IN GENERAL.—For purposes of subparagraph (B) of section 7101(a)(19)(C), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6-taxable year period beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in which such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1)(B), subparagraph (B) shall be applied with respect to such group.

(F) CONTINUATION OF APPLICABILITY OF RESIDENTIAL LOAN REQUIREMENT.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)(C) for its first taxable year beginning after December 31, 1995—

(A) IN GENERAL.—For purposes of determining the net amount of adjustments required to be taken into account under section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the 6-taxable year period over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.
``(B) Treatment Under Elective Cutoff Method.—For purposes of applying section 585(c)(4)—

(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

(ii) no amount shall be includable in gross income by reason of such reduction.

(6) Suspended Reserve Included as Section 381(c) Items.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

(7) Conversions to Credit Unions.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

(8) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations.

(9) Subsection (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(10) Subsection (a) of section 860E is amended—

(A) by striking “Except as provided in paragraph (2), the’’ in paragraph (1) and inserting “The’’.

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows ‘‘subsection’’ and inserting a period.
The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. Thurmond].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, You created us to soar, to mount up with wings like eagles. We realize that it is not just our aptitude, but our attitudes that determine our attitude. Our attitudes are the outward expression of our convictions congealed in our character. People read what is inside by what we project in our attitude.

Help us to express positive attitudes based on a belief that You are in control and are working out Your purposes. We want to allow You to love us profoundly so our attitude will exude vibrant joy. May Your peace invade our hearts so our attitude will reflect an inner security and calm confidence. We long to have the servant attitude of affirmation of others, of a willingness to listen to their needs and of a desire to put our caring into practical acts of kindness.

Lord, if there is any false pride that makes us arrogant, any selfishness that makes us insensitive, any fear that makes us overly cautious, any insecurity that makes us cowards, forgive us, and give us the courage to receive Your transforming power in our hearts. All this is so our attitude to others may exemplify Your attitude of grace toward us. In Your transforming grace toward us. In Your transforming power in our hearts so our attitude will reflect an inner security and calm confidence. We long to have the servant attitude of affirmation of others, of a willingness to listen to their needs and of a desire to put our caring into practical acts of kindness.

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ORDER OF PROCEDURE

Mr. LOTT. I ask unanimous consent that the time between now and 10:30 be equally divided between the two leaders or their designees. The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. LOTT. Also, Mr. President, for the information of all Senators, following the debate and the establishment of a quorum, there will be a cloture vote on the pending Murkowski amendment to H.R. 1296, the Presidio legislation. Senators should be alerted that the vote will occur at approximately 10:40 this morning. If cloture is invoked on that substitute, it is still the hope that we may complete action on H.R. 1296 during today's session. If cloture is not invoked, it may be the intention of the majority leader to begin consideration of either the line-item veto conference report or the farm bill conference report.

Senators should be reminded that additional rollcall votes can be expected during the day. And again to emphasize that point, we are hoping we will soon have an agreement, working with the Democratic leader, we can announce with regard to the conference report to accompany S. 4, the line-item veto bill, but we are not prepared to do that at this time. So we will have debate between now and 10:30 equally divided, and then we will have the vote at 10:40.

I yield the floor, Mr. President.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wish the Chair a good day.

S2907
2 million acres of wilderness to the people of the United States in the State of Utah, and to provide an important watershed to both New York and New Jersey known as Sterling Forest.

We had this measure before us. It had been the subject of a great deal of effort and a great deal of compromise. Some 23 States were affected, with some 53 individual titles or lands affected in those States. It was a package that had been negotiated with the House of Representatives, and it was apparent to all that in order for the package to pass we had to keep all its aspects, including those that were of a controversial nature. One of those, of course, was Utah wilderness. The issue was all or nothing with some of the opponents.

They felt that 2 million acres added to the wilderness designation in Utah was inadequate; it should be 5 or 6 million acres. The citizens of Utah—the legislature, the Governor, the entire Utah delegation—felt that 2 million acres was a compromise event, they felt that it would have made that determination on a clear and unrestricted vote had not some Members saw fit yesterday to attach the minimum wage amendment to this package—the minimum wage is an important issue, but it simply does not belong on this packages package, and as a consequence the package package has been set aside.

It will come up another day, but I wish to express my disappointment, and I believe that this Members who have worked so hard to try to bring the package together.

I am disappointed also in the media because they failed to recognize the importance of this package. But I wish to at least have the Record reflect why we had that package before us.

The Senator from California and the Senator from New Jersey, both have indicated that somehow it was the fault of the majority that the package was lost, and that it was unfair, some suggested awful, that they were forced to vote on Utah wilderness and other measures they wanted to see their measures enacted. In other words, they wanted Utah wilderness out of it. Yet they knew that the House would not accept the package unless Utah wilderness was in it.

Let the Record reflect that it was the objections on the other side of the aisle that have held each and every one of the 47 other special park bills. In our respective areas to accommodate the various Senators and to recognize this for what it was, and that was a giant compromise. While working with my friend from New Jersey and the Senators from California on their measures, as well as colleagues on both sides of the aisle, I appreciate the fact that the other side has decided, evidently, for the political opportunism associated with the realization that we have in the AFL-CIO come out and publicly endorse the Clinton administration and indicated its willingness to raise some $35 million to defeat Members on this side of the aisle who are running. Evidently, that was the momentum to put the minimum wage on the park bills.

I also appreciate the fact that the people of Utah are the real victims in this, in a sense, because it is their State that is in jeopardy with regard to the amount of wilderness. I commend those Senators who are speaking on behalf of their State in the interests of the majority of the residents of that State.

We can either reestablish some sense of comity, or history is going to reflect this very important package of measures for the park system was killed, and the environment is the sufferer. Unfortunately, I do not think the media are going to pick up on the accuracy of this, but someday history will. I think it is going to be much greather when the two Senators from Massachusetts saw fit to basically drive a stake into the heart of this measure. I, again, went out of my way to include measures dealing with the Boston National Historical Park, Blackstone River Valley, which were items of great interest to the Senators from Massachusetts. I told the House there was no deal on this unless they would remove the measure of the measures—not the measures just of the Senator from New Jersey, but the measures proposed by the Senators from Massachusetts. Unfortunately, they care more about the politicized potential of campaign contributions from organized labor than they do about the measures from their own State or other measures included in this package for the benefit of others. It is a political stunt, and it is an expensive political stunt, at the expense of the environment.

So we are into it, and the consequences of that lead us to a vote that is going to take place in about 45 minutes on cloture. I, naturally, urge my colleagues to support cloture, but I am realistic enough to recognize this vote is going to be seen as a politically symbolic vote. It is going to have a reference to the minimum wage, which it certainly should not. This is a vote for the environment, good for the National Park System, good for the environment.

What is the answer? Sterling Forest is going to lose, Presidio is going to lose, Utah wilderness is going to lose, and 47 other special park bills will not move. This is the problem with hostage taking: Either they all get freed or they all will die. I think it is time to get off the plastic pedistal and get down to the business of the Presidio and other measures. I will vote for Sterling Forest, I will vote for Presidio, I will vote for Utah wilderness, I will vote for the other measures in the package because of its overall good for the environment, good for the National Park System, and the good for the National Park System, and the good for the National Park System.

I yield the floor.

Mr. KYL. Mr. President, I commend the chairman of the Senate Energy and Natural Resources Committee for the statement he just made and for the effort he has brought to the Senate floor to get this important legislation through. I join him in regretting it has not been possible. I, too, hope in the future it will be possible.

The WALNUT CANYON NATIONAL MONUMENT—BOUNDARY MODIFICATION

Mr. President, I rise today to speak in favor of the omnibus lands bill, an amendment in the nature of a substitute to H.R. 1296. This bipartisan legislative package includes the President and more than 50 other park and public lands bills, which have already been reported by the Energy and Natural Resources Committee. The vast majority of these bills are
not controversial and deserve to be passed as part of this package.

I realize a few of the provisions in this legislation are controversial. Most notable is the title addressing Utah wilderness. The groups involved have worked for many years to strike the controversial hard release language. The people of Utah have wrestled with wilderness for over 20 years at a cost of $10 million. This issue needs to come to closure.

I also want to speak about an issue closer to home: Walnut Canyon. On November 9, 1995, the Energy and Natural Resources Committee held a hearing on this legislation and on December 6, the committee voted unanimously in favor of reporting the legislation to the full Senate. With the legislative process, this issue has had the full support of the House, the Senate, and the affected communities in Arizona.

This legislation, introduced by Senator John McCain and me, is based on a number of concerns about various aspects of this legislation. I compliment the Senate without a single item in this legislation are now equal value exchanges; and, reversion to the original legislation slightly greater than BLM's designation; and, acres not selected for wilderness designation, reflects the technical information gathered by BLM as well as input from over 75 formal public meetings and thousands of letters.

The seemingly endless Utah wilderness debate demonstrates what can happen when either side takes an all or nothing approach. We must all recognize that wilderness is not the only protective designation available to us. There are other, more appropriate ways to protect our public lands while recognizing and allowing for prior uses.

This proposal relies upon BLM's planning process for the redesignated public lands. This provides the flexibility and cooperative spirit necessary for sound management. It is important to note that their approach does not permit a future Congress from reconsidering these lands' wilderness potential.

Nothing is set in stone. Nothing would prevent a future Congress from passing legislation to add land to or withdraw land from this plan.

Those who depict this wilderness designation process as though we are faced with an irrevocable choice between wilderness or the bulldozer do us all a disservice.

Even for those lands never designated as wilderness, all is not lost for preservationists. There are a host of BLM land classifications designed to protect the natural and cultural attributes of public lands, existing uses.

Release of the 1.2 million acres not selected for wilderness designation provides BLM's land managers, working together with local communities, greater management flexibility while insuring continued resource protection. These other protective designations include the following:

- Areas of critical environmental concern;
- Outstanding natural areas;
- National landmarks;
- Research natural areas;
- Primitive areas; and
- Visual resource management class I areas.

Mr. President, I have seen a fair number of wilderness bills become law during my three decades on the Energy and Natural Resources Committee. Since 1964, Congress has enacted 88 laws designating over 60 million acres of wilderness areas. We now have a system that includes 630 wilderness areas encompassing 104 million acres in 44 States.
Mr. LEAHY. Mr. President, I rise in strong opposition to the omnibus national parks bill. There are so many problems with the Utah lands provisions that I hardly know where to begin in urging other Senators to vote against this package.

The Utah lands provision is simply unacceptable. It does not protect enough land, the American public opposes it, it includes hard release language, it sets bad precedents for wilderness legislation, it opens unique and beautiful lands to power lines, dams, pipelines, mining, and other uses, it compromises the heritage of our children, and it achieves all this only by ransoming every other national priority in the Senate.

The proponents of Utah lands language cannot buy public approval at any price. I wrote to Majority Leader DOLE last week to make this point perfectly clear. Senators, including this Senator who wants very much to see some of the associated measures pass, will not stoop to pass a so-called wilderness bill that leverages politics against the priceless beauty of remote Utah canyon lands.

I am frustrated by the high-stakes games being forced upon the Senate. One week we have our backs to the wall to finish a late farm bill so thatdamns, pipelines, mining, and other uses, it compromises the heritage of our children, and it achieves all this only by ransoming every other national priority in the Senate.

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I am frustrated by the high-stakes games being forced upon the Senate. One week we have our backs to the wall to finish a late farm bill so that farmers can begin planting. Another week we have our backs to the wall to finish a late appropriations bill so that the Federal Government can stay open. Last summer we were forced to adopt a salvage rider in order to get peace in the Middle East, relief to Oklahoma, access within protected areas, construction of communication towers, and continued grazing rights.

In addition, I am concerned that the Utah lands bill designates only about 2 million of the Federal Government’s 32 million acres in Utah as wilderness. Currently, the Federal Government manages 32 million acres of its holdings as wilderness study areas, allowing the Federal agency charged with managing the land the opportunity to conduct a thorough study to determine its suitability for inclusion in the Wilderness Preservation System. The legislation before us would direct those Federal agencies to make all land not selected for wilderness available for multiple uses, such as mining, grazing, and development. Hard release language included in the bill would preclude those agencies from managing this land in a way which would protect its wilderness characteristics for the future.

Mr. President, the wild and beautiful Utah public lands which are under discussion today are a national treasure belonging to all Americans. In my view, it is critical that we, as a nation, do not allow the destruction of our precious natural resources. Wilderness areas constitute only 2 percent of all land in the United States. We must not fail in our obligation to protect the beauty and integrity of these lands for future generations.

Mr. LAUTENBERG. Mr. President, I rise in opposition to the substitute amendment to H.R. 1296, the Presidio bill.

Mr. President, as we all know by now, this is not a noncontroversial public lands bill. There are many provisions in the bill that truly are noncontroversial, and that have been considered and voted on in committee with little if any opposition. The purpose of wilderness is supported by Americans of all political stripes. I have worked with former Senator Bob Stafford in Vermont to restore the tradition of bipartisanship on environmental issues. Just recently I received a letter from the organization Republicans for Environmental Protection asking Senator DOLE to strip the Utah provisions from the bill. It is wrong for any party to charge down a path of exploitation and environmental abuse, and I urge the Senate to reject the Utah lands bill.

My children, and many of the children of my colleagues, will live most of their lives in the next century. We are in a position to decide what the next century will look like. Yes, we got here first. Just as the first explorers made resource decisions centuries ago, we now face similar decisions about the fate of our natural resources. Just as the native Americans and first European settlers decided to protect public lands as a constraint on a land use, we have an obligation to those who will follow. This bill gives the Senate a clear opportunity to decide whether we protect our heritage, or say “me first” to the treasures of southern Utah.

The political pressure to support the Utah giveaway is enormous for some of my colleagues. Nonetheless, the responsibility to do the right thing is far more valuable and far more important.

I urge the Senate to reject the Utah lands provision.

Mr. SARBANES. Mr. President, I rise today to add my voice to those requesting that S. 884, title XX of the pending substitute amendment, be removed from the Presidio bill and be considered as freestanding legislation.

Mr. President, on Monday the Senate began consideration of H.R. 1296, legislation developed with the assistance of the California delegation creating a Presidio trust to manage property at Presidio Bay. The Presidio, a former Army post overlooking San Francisco Bay, was recognized by the Congress in 1972 as a national treasure and was slated for exclusion in the National Park System upon its cessation from military use.

The substitute amendment before us, the omnibus parks and recreation bill, contains—in addition to the Presidio bill—approximately 32 public lands titles, many of which have been reported out of our Natural Resources Committee with bipartisan support. However, one title of this amendment, title XX, the Utah Public Land Management Act, does not enjoy the same bipartisan support, and is preventing the Senate from completing action on the underlying Presidio legislation in a timely manner.

The Utah Public Land Management Act contains a number of provisions which would have a profound impact on existing and future wilderness designations, as well as undermining standards of public lands management established by the Wilderness Act of 1964. The Wilderness Act of 1964 defined a wilderness as land where, “in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man, where man himself is a visitor who does not remain.”

Unfortunately, the real goal of the pending substitute amendment is to strip through the highly controversial Utah wilderness provisions based on Senate bill 884. Those provisions would permanently release millions of acres from wilderness study, and, in turn,
allow uses on these lands that will destroy lands with significant ecological and scientific value.

Mr. President, I oppose including S. 884 in this omnibus lands bill, and will support an effort to remove that title in its entirety. An examination of the contents of the provisions in the underlying legislation, which are truly noncontroversial. But we ought to have a separate, open, and honest debate on those provisions that are controversial.

Mr. President, I have heard from more people—both in New Jersey and from out West—about the Utah wilderness bill than perhaps any other public lands issue. By an overwhelming margin, people have urged me to support Utah wilderness, and to oppose S. 884 as written.

Who are these people who visit my office, write me letters, stop me in the halls? They are people from New Jersey who understand what it means to live in the most densely populated State in the nation. People who understand what it means to live in a State still reeling from the legacy of pollution from the industry, and who value open space, beautiful natural resources, and clean fresh air.

New Jerseyans know that once land is destroyed by extensive development, it may never return as it was. At best, it takes a very long time to recover.

I’ve heard it said on the floor of this Senate that the only people who oppose S. 884 are the Eastern elites. Well, Mr. President, these so-called elites from New Jersey are really ordinary people who care about their environment and their Nation’s natural resources. They care because they know what it’s like to be without.

But, Mr. President, not everybody opposed to S. 884 is from New Jersey. Take the mayor of Springdale, UT. He visited me a year ago to explain how his community benefits more from preserving the wilderness than from activities that would alter or destroy it. As the mayor explained, recreation and its associated businesses provide for a sustainable and growing economy. By contrast, he said, resource extraction does not.

I’ve also heard from a fourth generation Utah native, the past president of the Salt Lake City Rotary Club, a Mormon, and father of four children who urged me not to get involved in this issue.

He told me that recreational and other commercial enterprises depend on the wilderness. And that these businesses are critical to the economic vitality of the State of Utah and to Utahians’ quality of life. He also told me that preservation is crucial to his peace of mind.

Mr. President, it is true that these lands are all in Utah. But they are also national lands that contribute to the entire country. We need to have a great geological significance, and they provide scientific and educational treasures, as well as a growing recreation business. That is why I care.

Mr. President, I also care very much about title XVI of the bill, the Sterling Forest Preservation Act. Let me talk a little about Sterling Forest and why its preservation is so important.

This bill designates the Sterling Forest Reservation lands located on the Appalachian Trail, in the State of New York, and the Highlands region in the United States. It also would protect the source of drinking water for 2 million New Jerseyans.

Mr. President, the Highlands region is a 1.1 million acre area of mountain ridges and valleys. The region stretches from the Hudson to the Delaware Rivers and consists primarily of forests and farmlands. The Forest Service, in a 1992 study, called the Highlands, “a landscape of national significance, rich in natural resources and recreational opportunities.”

Unfortunately, the Highlands region faces an increasing threat of unprecedented urbanization. Perhaps the most immediately threatened area is Sterling Forest.

Located within a 2-hour drive for more than 30 million people, the 17,500-acre tract of land on the New York side is owned by a private company that has mapped out an ambitious plan for development.

The community that this corporation plans to develop will have a negative impact on drinking water for one-quarter of New Jersey residents. It also threatens the local ecosystem and wildlife, the nationally designated Appalachian Trail, and the quality of life of the residents of the New York–New Jersey metropolitan area.

I will not describe this proposed project in detail. But suffice it to say that one cannot build a development of more than 14,000 housing units and 8 million square feet of commercial and light industrial space, and release 5 million gallons of treated wastewater into a pure environment, without a significant impact.

My concern about the project’s effect on New Jerseyans’ drinking water is not new. We have known for some time that this development will destroy valuable wetlands, which filter and purify the water supply, and reservoirs, which supply one quarter of New Jersey’s residents with drinking water.

The proposal calls for three new sewage treatment plants to accommodate the development. These plants will discharge 5.5 million gallons of treated wastewater each day into the watersheds.

Compounding matters will be nonpoint source pollution generated by runoff from roads, parking lots, golf courses, and lawns. This runoff carries such pollutants as fertilizers, salt, and petroleum products, among others. Together these pollutants pose a serious threat to drinking water, which is why there is so much concern in New Jersey.

I am not alone in my opposition to the proposed development. Residents from the nearby communities also oppose it. Based on testimony delivered during a local public hearing, the development plan will impose $21 million in additional tax burdens on surrounding communities. On the other hand, under the management scenario proposed by this bill, a park would generate revenues.

The only viable management option for this important ecosystem is preservation. And that is what is proposed in this legislation.

The bill would provide critical protection for the forest. But it does not impose the heavy hand of the Federal Government on the local community or on the owner of the property. The funds authorized in this bill represent a fraction of the total funding needed to purchase the forest. The rest would come from other public entities, such as the States of New Jersey and New York, and private parties.

I also would note that the legislation specifically requires a willing buyer-willing seller transaction—if the company determines that it is in its best interest to sell, it doesn’t have to.

Furthermore, the Federal Government would be relieved of the significant costs associated with forest management, law enforcement, fire protection, and maintenance of the roads and parking areas under an agreement with a respected bi-State authority.

These provisions have the support of the local communities, the two States, and regional interests. They are cost effective and reasonable. And they are environmentally responsible.

Senator BRADLEY and I have worked on this bill for years now, and we are pleased to note that last June, the bill passed as part of H.R. 400, now pending in the House. We have heard many expressions of support from the Speaker of the House for preserving Sterling Forest, and we anxiously await passage of H.R. 400.

Unfortunately, including Sterling Forest in this bill only serves to, in the words of the Sterling Forest Coalition, “hold Sterling Forest hostage to S. 884.” The people of New Jersey do not support this omnibus lands bill as written, and I share their view.

Let me quote from a letter I received yesterday from the Highlands Coalition, a leading organization with membership in Connecticut, New York, and New Jersey:

The Title XX of this bill, the Utah Public Lands Management Act . . . is anathema to environmental principles and must not be connected to Sterling Forest funding . . . The amount of acreage it would set aside as Wilderness in southern Utah is less than one percent of the area in the United States that is comparable, compared to the area of citizens in Utah and surrounding States would like to see. The preservation of Sterling Forest must not be at the cost of environmental degradation elsewhere in the United States. The Omnibus Parks bill must be amended to delete it in its entirety.
Mr. BINGAMAN. Mr. President, I rise to express my concerns with the current language of the Utah wilderness bill. First of all, I oppose this controversial bill being attached to a large group of largely noncontroversial bills that are very important.

I do support passage of a Utah wilderness bill. However, I cannot support this bill. This bill largely precludes future designations of BLM wilderness in Utah; substantially alters the definition of wilderness; and may result in an unfair land exchange value between the United States and the State of Utah.

I am opposed to the hard release language the bill contains. If this bill were to become law, it would be the first of over 100 wilderness laws to contain hard release language. I agree that lands not included in this bill should generally be released to standard multiple use provisions, but I do not agree that BLM should be precluded from ever considering future wilderness designations on 1 million acres of public land in Utah. I believe the soft release language that the Bush administration supported is the appropriate route.

Even if these issues were resolved, I still have grave concerns stemming from the unique management and land exchange provisions. If this Utah wilderness bill were to become law, the Nation would effectively have two wilderness systems: Utah and the rest of the Nation. It would in effect result in a brand of wilderness that would be so different, that current BLM regulations, which are appropriate for all other BLM wilderness areas, would have to be substantially altered just to accommodate the unique provisions of this bill.

Most startling is the fact that it appears that the Secretary of the Interior would in Utah have less authority to control access in and around wilderness areas than nonwilderness areas. How can this be wilderness if it is less protected than nonwilderness areas?

One small example of nonconformity is the bill’s special provisions for facilities within wilderness areas. Section 2003(d) provides:

Nothing in this title shall affect the capacity, operation, maintenance, repair, modification or replacement of municipal, agricultural, livestock, or water facilities in existence on the date of the enactment of this Act.

There is no qualification to this paragraph. Conceivably, projects could be expanded without any regard to impacts to wilderness values. This is only one small example of the special provisions included in the language of this bill.

In the past, wilderness laws have generally deferred to the access provisions of other multiple-use lands.
of the Wilderness Act of 1964. This practice provides a measure of consist-
ency throughout the wilderness sys-
tem. The proponents of this Utah wil-
erness bill have strayed so far from the
vision of the original framers of the
Wilderness Act that an alternative type
of wilderness would, in effect, be
established. I do not support this estab-
lishment of an alternative version of
wilderness.

Even if this bill did not contain these
noncomformities, I would still have
concerns with the land exchange
provisions that would provide a unique
means to establish the value of Federal
lands to be exchanged to the State of Utah.
These provisions would give a
significant advantage to the State of Utah
that no other State has enjoyed in its
wilderness bills.

I support passage of a Utah wilder-
ness bill. However, I believe the bill
must not preclude future designations of
wilderness; substantially alter the
definition of wilderness; nor make
unfair exchange values between the
United States and the State of Utah.

Mr. FEINGOLD. Mr. President, I rise
today to express my deep concerns about an
omnibus package, S. 884, the Utah Public Land Management Act, before
the Senate. Many of my constituents be-
die about the fate of 22 million Federally
owned acres of land in southern Utah. It des-
ignates a portion of the acres as wilder-
ness and leaves vast areas free for de-
volution. This is one of the few times
this session that the Senate will have
the opportunity to engage in a dialog
over what should happen to these and other
land transfers.

The Utah provisions contained in the
measure currently before the Senate are
controversial provisions. Both Utah
and national newspapers have been a
hotbed of debate over the question of
how much wilderness to protect and the
process used to develop the bill. I also
know that many citizens in my State are
deply concerned about aspects of this
bill which would fundamentally alter
the Federal lands which all Americans own. Wisconsin
ites who care deeply about the Federal
lands in Utah as well as Federal land
policy in general have written to me
and urge significant changes in this
measure.

Mr. President, a major concern about
the measure currently before the Senate
relates to the hard release language in
the Utah provision which affects the
future ability of the BLM to designate
additional wilderness areas in Utah that
need protection in wilderness. BLM
is currently managing 3.2 million acres
in Utah as wilderness. The provisions of the sub-
stitute amendment relating to Utah
would designate approximately 2 mil-
lion acres as wilderness. They further
require that any lands not explicitly
designated by the bill as wilderness
will be managed for multiple-use.

Therefore, even if BLM finds in the fu-
ture that an additional area is in need of
protection, no additional lands could be designated as wilder-
ness. The Senate has never passed a
bill containing such language before,
and such language is a significant de-
parture from the tenets of the 1964 Wil-

derness Act.

The key protection wilderness des-
ignation offers the lands in southern Utah is protection from certain kinds
development—but not from the use
of the lands. Activities allowed in wild-
erness areas are: foot and horse travel;
hunting and fishing; backcountry
camping; float boating and canoeing;
guiding and outfitting; scientific study;
educational programs; livestock graz-
ing if it has already been established;
control of wildfires and insect and dis-
ease outbreaks; and mining on pre-
existing mining claims.

Prohibited activities, according to
the 1964 Wilderness Act include: use of
mechanical devices such as snowmobiles
or all-terrain vehicles to enter emer-
gencies, or such vehicles as wheel-
chairs; roadbuilding, logging, and simi-
lar commercial uses; staking new min-
ing claims or mineral leases; and new
reservoirs or powerlines, except where
authorized by the President as being in the
national interest.

The magnificence of the wildlands
that are at stake in this debate cannot
really be done justice in words, Mr.
President. As my colleague from New
Jersey, Mr. BRADLEY, has already
shown the Senate, they include starkly
beautiful mountain ranges rising from
the desert floor in western Utah with
ancient bristlecone pine and flowered
meadows. Some areas are arid and a-

sertion; others are steep, rocky, leath-
ery slopes speckled with pinyon pine
and juniper trees. Other areas support
habitat for deer, elk, cougars, bobcats,
bighorn sheep, coyotes, birds, reptiles,
and other wildlife. These regions hold
great appeal to hikers, hunters, sight-
seers, and those who find solace in the
desert’s colossal silence.

These BLM lands are truly remark-
able American resources of soaring
cliff walls, forested plateaus, and deep
canyons which encompass the sculpted
canyon country of the Colorado Plateau, the Mojave
Desert, and portions of the Great Basin.

Some in this body may think it
strange that a Senator from Wisconsin
would speak on behalf of wilderness in
Utah. The issue of and debate over
Utah wilderness protection, Mr. Presi-
dent, has been one of which I have been
aware since the time I joined the U.S.
Senate. Many of my constituents be-
lieve that the lands of southern Utah
are the last major unprotected vestige
of spectacular landforms in the lower
48 States—of the caliber of lands so
many nationwide already hold dear,
such as Yellowstone, the Grand Can-
yon, and the Arctic National Wildlife
Refuge. I have received more constitu-
ent mail—over 600 pieces in all—from
Wisconsin residents concerned about
wilderness lands in Utah. These are the
other environmental issues in this
Congress—including many critically
important issues to my State such as clean water, safe drinking
water, the protection of endangered
species, and Superfund reform. A man
from Menominee Falls, WI, writes:

A woman from Beloit added in her
letter:

I live in Wisconsin but my real home is the
natural world. . . . most voters do not concur
with the irrevocable destruction that would
result from (this measure) becoming law.
Please: do all you can to be a voice for wild-
erness—not only in Wisconsin but in the
fragile and gorgeous West.

One of the most poignantly
testimonials came from an Eau Claire
resident:

I have not had a lot of experience writing
to my elected representatives. How-
ever, it appears that the current priorities in
Washington are shifting away from conserva-
tion towards a destructive, greed oriented
approach, under the guise of economic
growth and development of public lands.
Given this climate, I feel I must write to ex-
press my opinion. I have had the oppor-
tunity to visit much of the West over the past 30
odd years on annual family vacations. This
is truly a unique land without rival any-
where else in the world. My family and I
have learned to love and respect this region
and we feel that it must be protected in its
natural form. I strongly urge you to oppose
any compromise Utah lands bill that does
not include a strong vision of conservation
for future generations.

Mr. President, I read from some let-
ters from Wisconsin residents because I
think it is critical to underscore that
the importance of protecting these
lands in Utah extends beyond the bor-
ders of that State. Many Americans
enjoy and treasure this area, just as
they do other great American wilder-
ness areas and it is the responsibility
of all members of the Senate to be con-
cerned about the fate of this national
treasure.

I have been personally touched by
these appeals from residents of my State recognizing the irrelevance of
this issue to my constituents, on Oc-
tober 11, 1995 I circulated a small pa-
perback book containing essays and
poems by 20 western naturalist writers
reflecting their thoughts on the protec-
tion of wilderness in Utah to all mem-
bers of the Senate. The book, entitled
"Testimony," was released on Septem-
ber 27, 1995. It is modeled after the late
author Wallace Stegner’s 1960 Wilder-
ness Letter to the Kennedy administra-
tion which was a critical benchmark
document in the development of the
and eventual passage of the 1964 Wilder-
ness Act. In his 1960 Wilderness Letter,
Wallace Stegner said "something will have
gone out of us as a people if we let the remaining wilderness be destroyed."

Mr. President, those words are echoed and reverberated by these western writers as they describe the legislation now before the Senate and its affect on Utah.

The paperback was compiled during August 1995. The selections represent the opinions of the authors, written in direct response to the measure currently before Senate which would affect public lands management in Utah. The book includes writings by individuals such as: Terry Tempest Williams, Utah native and author of five books; T.H. Watkins, editor of Wilderness magazine; N. Scott Momaday, winner of the 1969 Pulitzer Prize for "Mann of Made of Dawn"; and Mark Strand, former Poet Laureate of the United States. 1,000 copies of the book were printed for distribution on the Hill, and I now understand that the writers intend for this work with Milkweed Press in Minnesota for the general public. The writers donated their work to produce this small book and the printing costs were covered by a donation from a nonprofit foundation.

I distributed this book because I felt that it was important for all members of the Senate to have a copy of this book to review in making a decision that so profoundly affects future of such a spectacular area.

One of the pieces in the Testimony book that most caught my attention, Mr. President, was a selection by Stephen Trimbell. Steve Trimbell is a writer and conservationist who lives in Salt Lake City, and who was instrumental in working with Terry Tempest Williams to facilitate putting the Testimony book together. Those Senators who have been following the debate over the Bureau of Land Management, the largest agency within the Department of Interior, are already very familiar with Mr. Trimbell's handiwork. For several months, every Friday, photographs of the areas excluded from wilderness designation under the measure before us were sent to every Senator's office. Many of those "Friday pictures," as they have come to be known around my office, were taken by Trimbell. I wanted to share Steve Trimbell's words on this matter with the Senate. He writes:

My place of refuge is a wilderness canyon in southern Utah.

Its scale is exactly right. Smooth curves of sandstone outcrop and cradle me. From the road, I cross a mile of slickrock to reach the stream. This creek runs year-round, banked by orchids and ferns. Entering the tangle of greenery, I rediscover paradise. The canyon is a secret, a power spot, a place of pilgrimage.

I found this canyon in my youth, twenty years ago. I came here again and again. I brought special friends and lovers. When my wife and I met, I discovered that she knew this place, I felt certain that she knew a place deep within me, as well. My children are within a year of walking into the canyon on their own. I thrill to think of that first visit with my own children.

On those early trips, I rarely saw other people. Once, in the velvet light before dawn, I awoke, sat boldly upright, and looked past my sleeping bag into a lonesome ponderosa pine—a tree that brought the spicy scent of mountain forest to this desert canyon. A few seconds earlier, it landed on a branch and looked back at me with fierce eyes. The owl flew down canyon, searching for unwary mice. I lay back, fell asleep, and awoke again when the sun warmed me.

I bathed in plunge pools and waded along the stream, learning to pay attention, looking for reflections and leaf patterns as rock formations to photograph—details that I would not see if the canyon had not taught me how to look. Never before had I spent so much time alone and so matured, as a naturalist and photographer and human being.

This wilderness canyon made me whole. It can still restore me to wholeness when the stress of life pulls me thin. It bestows peace of mind that lasts for months.

People smile when they remember such particular places on Earth where the seasons and textures and colors belong to them. Where they know, with assurance and precision, the particular relationship to it.

"This is my garden."

"This is our family beach."

"I know this grove like the back of my hand."

"I can tell you where every fish in this stream hides."

"I remember this view; it takes me back to my childhood."

These landscapes nourish and teach and heal. They help keep us sane, they give us strength, they connect us to our roots in the earth, they remind us that we share in the flow of life and death. We encounter animals in their native place and they look into our eyes with their own difference and companionship that separates and unites us with other creatures. A garden can connect us with wilderness. Wilderness connects us with our ancestral freedoms even more powerfully.

Recently, we visited a canyon new to us in the southern Utah wilderness, this time with urban cousins—two girls, seven and eleven. The younger girl spotted a whipsnake, a nesting Cooper's hawk, beetles, Indian paintbrush. We painted ourselves with golden cat-tail pollen and watched as we wove from rushes and milkweed leaves. Taught never to walk alone in their city, here the girls forged ahead out-of-sight, exploring, appropriating power, gathering the dependable certainties of the wilderness, building emotional bed-rock, new layers of confidence and self-esteem. Perhaps this canyon will become their canyon.

We need to preserve every chance to have such experiences, for ourselves, our children, and the grandchildren of our grandchildren.

And I would want to preserve a piece of that land, immediately adjacent to the Bureau of Land Management. They belong to all citizens of the United States. In truth, they belong to no one. They are a magnificent expression of the powers of Earth, and we Americans hold Utah wilderness in trust for all humans and all life on our planet.

The truly conservative action becomes clear: to preserve as many wildlands as possible for future generations rather than to fritter them away in casual development without even noticing. A Utah wilderness bill with too little land preserved and too many exceptions for development is unacceptable. We must no longer defend wild places for the short-term wealth of the few.

Every year our wildlands shrink. We must act now, decisively, boldly. To save my canyon. Your canyon. Your canyon.

We must preserve the wholeness of wild places that belong to everyone and to no one. In doing so, we demonstrate our trust in future generations. We demonstrate a proper stewardship of the land. On behalf of the canyons. Our canyons.

That short piece of writing is so powerful. Mr. President, because it is a testimonial. We have as a people feel about natural places. For myself, I personally know the value of wild areas. For the last 9 years, I have spent my summer vacations on Madeline Island, immediately adjacent to the Apostle Islands National Lakeshore in northern Wisconsin. I have always found the quiet beauty of the Apostle Islands refreshing and invigorating. The Apostle Islands are not a place the people in Wisconsin go for high-tech hubbub; it is a place where people go to experience nature's magnificence.

I want to recount a story, one perhaps several of members of the Senate may remember, from 1967, when the Senate Subcommittee on Parks and Recreation held hearings on Senator Howard Nelson's plan to create the Apostle Islands National Lakeshore. A man named John Chapple, a newspaperman from Ashland, WI, testified at those hearings. Mr. Chapple, who spent much of his life around the Apostle Islands, related the story of a time when he and his 10-year-old son were out in a 14-foot motorboat on the waters around the Apostle Islands:

On one occasion, the water was very rough, and I pulled our little boat onto a sand beach so I put some money on the motor. Three men came walking out. "Don't you know this is a private beach?" they said. "You are not supposed to land here."

That stung, and it stuck.

Twenty-five men with fortunes could tie the Apostle Islands up in a knot and post "keep out" signs all over the place. The Apostle Islands are not a place the people in Wisconsin go for high-tech hubbub; it is a place where people go to experience nature's magnificence.

The Apostle Islands are a natural heritage. Though those words are not supposed to land here.

That stung, and it stuck. That stung, and it stuck. That stung, and it stuck.

The Apostle Islands are not a place the people in Wisconsin go for high-tech hubbub; it is a place where people go to experience nature's magnificence.

When the Senate acted to protect this area of northern Wisconsin, they heard the voices of Wisconsinites like Mr. Chapple who knew the value of peace and beauty and of preserving our natural heritage. Though those words were spoken by wise men nearly 30 years ago, about an entirely different landscape, they almost sound like an addendum to Steve Trimbell's story about southern Utah canyons, which is included in a new testimony.

In places like the Apostle Islands and southern Utah, Wisconsinites have found opportunities to develop a consciously sympathetic relationship to the rest of the world, so that we may
better live in it. These natural places are a confluence for the things we value in Wisconsin.

The parallels between the Apostle Islands in my State and southern Utah, interestingly go even further than the emotion, the beautiful landscapes and the people of my State. Along the Apostle Island National Lakeshore's shoreline there are the wonderful rust colored sandstone cliffs. These sandscapes serve as staging areas for birds following their ancient paths of migration. And as the ice melted and the wind and water at Apostle Island National Lakeshore near Bayfield.

In the case of the Apostle Islands, how will the Senate respond, Mr. President? And what does it tell us about the stewardship and attention we should pay here in the Senate to southern Utah. In 1967, Senator Nelson was leading the effort that led to President Nixon's signing, on September 26, 1970, of the legislation that established the Apostle Islands National Lakeshore—only a few months after the first Earth Day.

Many of my constituents are concerned that perhaps there isn't that kind of momentum in this body any more. As their letters reflect, they believe that there is a concerted campaign to undermine landmark environmental legislation, such as the Clean Water Act, and to curtail or end the Federal protection of endangered species and their habitats. They express frustration that the Senate is responding to efforts to persuade Americans they cannot afford further environmental protection, that the idea of protecting our natural heritage is somehow an affront to the American ideal of rugged individualism.

As we consider this measure we must be mindful of Wallace Stegner's words I quoted earlier, of the need to act carefully on these issues in community and with sympathy and responsibility for our place in the great scheme of things. I feel that it is exceedingly important to be actively engaged in discussing alternatives for the management of signi's sit report, such as the bill that was introduced by many visitors to the sea caves sculpted by centuries of wind and water at Apostle Island National Lakeshore near Bayfield.

For example, under section 2002 of the amendment, roads would have to be maintained to a much greater extent than is provided for in the Wilderness Act. Access by four wheelers, motorcycles, trucks, sport utility vehicles, and heavy equipment is guaranteed at any time of the year for water diversion, irrigation facilities, communication lines, and other nonwilderness Federal lands. Creating an exemption to allow such activities within wilderness areas raises the question, Mr. President, what is the purpose of extending a special designation such as wilderness if we do so with so many holes that the designation is essentially meaningless or that the lack of such a designation would actually be more protective. As I said before, this bill would allow activities in a federal wilderness that would not be permitted on other nonwilderness Federal lands.

Another example of the way this legislation would undermine the management of wilderness is included in section 2006 on military overflights. This section includes special language preempting the Wilderness Act and permitting low level military flights and the establishment of new special use areas over wilderness. This language sets a precedent for allowing such activities, precedent which is of great concern to the citizens of my State. I have been involved, along with concerned Wisconsin citizens, in monitoring the recently proposed expansion of low level flights by the Air National Guard in Wisconsin. The path of these low level flights would cross extremely ecologically sensitive areas in my State, and the existence of those areas has been used to justify the National Guard to take a more careful look at the planning of any such flights.

The third area of concern, which I highlighted earlier in my remarks, is the hard release language. This language, if enacted, would set an unacceptable precedent for the National Wilderness system. None of the more than 100 wilderness bills already enacted are consistent with the Wilderness Act. In short, the language of this bill for these lands. The legislation is full of these exceptions to standard wilderness management protocol.
It seems we are in a campaign mode now. Everyone is focused on the Presidential election. It does not seem like it was just 4 years ago that President—candidate then—Bill Clinton was going around the country saying we need to end welfare as we know it. People might ask what has happened in the last 4 years? The President seemed to be committing himself to ending welfare as we know it. Yet, during the first 2 years of his administration, when the Democratic Party controlled the House and Senate, nothing was done. When Republicans finally came in and it was part of the Contract With America, however, something did get done. We passed bills for welfare reform, and they not only reformed the essence of the welfare program to put more focus on people working, on providing incentives to families, and to reducing the costs of welfare, but also returned much of the decisionmaking to the States under the theory that the people of those States would have more connection with the specific people on welfare and would know better how to run the programs for the benefit of the people in their individual States.

First, the Interior Department believes of the $1 billion to be of approximately equal value. More importantly, should these lands have been permitted for mining under Federal ownership, the taxpayers would receive the return for all such mining activities. CBO determined that the net income to the Federal Government of the lands being transferred to the State of Utah would amount to an average of almost $500,000 annually over the next 5 years, or approximately $2.5 million in Federal receipts. In contrast, the Federal government would have designed would, over the next 7 years, be at least $1.36 trillion. The Federal portion of this amount would exceed $780 billion. Federal spending for Medicaid would increase at an average annual rate of 5 percent, between 1995 and the year 2002. This represents 8 percent of the Federal Government's total expenditures in the Medicaid program. It seems we are in a campaign mode now. Everyone is focused on the Presidential election. It does not seem like it was just 4 years ago that President—candidate then—Bill Clinton was going around the country saying we need to end welfare as we know it. People might ask what has happened in the last 4 years? The President seemed to be committing himself to ending welfare as we know it. Yet, during the first 2 years of his administration, when the Democratic Party controlled the House and Senate, nothing was done. When Republicans finally came in and it was part of the Contract With America, however, something did get done. We passed bills for welfare reform, and they not only reformed the essence of the welfare program to put more focus on people working, on providing incentives to families, and to reducing the costs of welfare, but also returned much of the decisionmaking to the States under the theory that the people of those States would have more connection with the specific people on welfare and would know better how to run the programs for the benefit of the people in their individual States.

First, the Interior Department believes of the $1 billion to be of approximately equal value. More importantly, should these lands have been permitted for mining under Federal ownership, the taxpayers would receive the return for all such mining activities. CBO determined that the net income to the Federal Government of the lands being transferred to the State of Utah would amount to an average of almost $500,000 annually over the next 5 years, or approximately $2.5 million in Federal receipts. In contrast, the Federal government would have designed would, over the next 7 years, be at least $1.36 trillion. The Federal portion of this amount would exceed $780 billion. Federal spending for Medicaid would increase at an average annual rate of 5 percent, between 1995 and the year 2002. This represents 8 percent of the Federal Government's total expenditures in the Medicaid program.

The legislation that we put together recognizes that there is a need for Federal support, there is a need for Federal leadership, but the States can run these programs. My own State of Arizona was the first to get a waiver and, from the very beginning, it ran a program it calls ACCESS, which provides medical services to the poor and has done so at a cost that the State of Arizona could afford.

The bottom line of the reform that we have put together on Medicaid—and here, again, the Governors have been in agreement on this—is that the program should continue to just not as fast as it has in the past, because the States would be given more latitude to run the programs on their own.

Total Federal and State spending of Medicaid under these programs would have designed would, over the next 7 years, be at least $1.36 trillion. The Federal portion of this amount would exceed $780 billion. Federal spending for Medicaid would increase at an average annual rate of 5 percent, between 1995 and the year 2002. It would grow from over $357 billion in 1995 to at least $220 billion in the year 2002, which represents an increase in spending of more than 40 percent. Mr. President. That is not a cut, lest anybody suggest that it is.

The key, as I said, is to allow the States greater flexibility to restructure the benefits of Medicaid to suit their own State's beneficiaries. Again, the National Governors Association has reached an agreement on Medicaid and we are on welfare reform.

The point of our comments this morning is to try to stress the fact that the Congress has been willing, the
Nation's Governors and legislatures have been willing, but there is only one person who stands in the way of Medicaid and welfare reform. His name is Bill Clinton. He is the President of the United States. He said he was for reforming these two programs in the first year he ran for President 4 years ago. But it has been 4 years and nothing has happened and nothing did happen until Republicans gained control of the House and Senate.

It should be very clear to our colleagues and the American people, this Republican Senate and the Republican House, the Nation's Governors, and many of our Democratic friends in the House and Senate are in agreement on what needs to be done. Will the President of the United States get that message before this next Presidential campaign? If he does not, my suggestion is that the American people will send that message loud and clear, because we should not have to wait until 1997 to reform welfare and Medicaid.

**UNANIMOUS-CONSENT AGREEMENT—HR. 1296**

Mr. KYL. Mr. President, on behalf of the leader, I ask unanimous consent that the quorum be waived with respect to the cloture vote this morning on the Murkowski substitute amendment; and further, that Senators have until 10:30 this morning in order to file second-degree amendments to the substitute in accordance with rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KYL. Finally, Mr. President, on behalf of the leader, to simply announce that Senators should be alert that the cloture vote will be at approximately 10:30 this morning.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

**AMERICANS CONDEMNED TO FUTURES WITH NO HOPE**

Mr. COVERDELL. Mr. President, I want to echo and underscore the remarks of my good colleague from Arizona. I do not know of any issue in the country for which there is more unanimity or agreement than the current status of welfare programs. You can go to any community, any State, any region, any city, and, as I said, there is a unanimity that this program has failed.

Sometimes in the discussions, we fail to acknowledge what that means. What that means is that hundreds of thousands of Americans have been condemned to stunted futures with no hope, no real education, no real prospect for opportunity in a life as we have come to know to be synonymous with being an American.

You can do anything as long as it is different and it would be better. Every statistic that we have endeavored to improve with these massive welfare programs, with the exception of one piece of data, is worse today and not just a little worse, but dramatically so. Every condition of the target of the welfare programs is worse, not better. We have higher teenage pregnancies, more people in families, more people in households, we have less scores in our education programs. It is all worse.

What makes it even more difficult to comprehend is that we have spent more of the Treasury of America on the War than we did on the Second World War, the First World War, Vietnam, Korea, and the Persian Gulf combined. We, essentially, prevailed on those battles, but we have lost the war on poverty. That means that there are millions of Americans today for whom the future is bleak, and we owe our fellow citizens more than this condemnation that we have created in our own country.

To put in context a response, a contemporary response, the President of the United States went to the American people in 1992 and, in his successful bid for the Presidency, said, "This condition must stop. This condition must come to an end. Welfare as we know it will not continue."

He was elected President. He had a majority in the House and the Senate, and in the 103d Congress, the Clinton Congress, nothing happened. Welfare, as we know it, is as it is—unchanged.

Then we come to the 104th Congress and this new majority, and an extensive Welfare Reform Act was passed in the House and in the Senate and sent to the President, the President who had promised the American people that he would end welfare as we know it. Instead, what he ended was welfare reform in the dark of the evening when he vetoed the Welfare Reform Act, which he has now done twice.

So you have to begin to get the picture that we have nothing; the welfare program, when you were in charge of the Congress and then you vetoed welfare reform twice subsequently, there may be a lack of interest in true welfare reform.

He is running political advertising as we speak today in the Nation's capital, and that advertising says that he is for welfare reform. I only suggest to the American people, at least to this point, there is a massive difference between the campaign and the actions and the deeds of governments, because we are today going into the final year of this administration, and there is no welfare reform, there is only a record of blocking and stopping.

The bill that went out of the Senate had over 80 votes, Republican and Democrat. He claimed it should be bipartisan. It was, but still vetoed, stopped.

At the end of the day—and I am going to yield now to the Chair—at the end of the day, this is all about American citizens. I do not think history is going to look very kindly on America for what it did to these people across our land, mostly in our large cities. They are virtual ghettos, prisons from which escape is almost impossible, and that should guide our actions. These programs should be changed if we care about our fellow citizens. And, Mr. President, I yield the floor. I will be able to take your post for a moment. I know you want to make some remarks as well.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from Oklahoma.

**GETTING OUT FROM UNDER THE RDELETEAPE OF THE FEDERAL GOVERNMENT**

Mr. INHOFE. Mr. President, a few weeks ago, the freshman class of the U.S. Senate made a trip around the United States to talk to different groups, different gatherings. We went all the way from Philadelphia to Knoxville, to Minneapolis, to Cheyenne, WY. One of the things we talked about, probably more than anything else, was welfare reform, changing the system as we have come to know it since the 1960's. The Senator from Missouri, Senator Ashcroft, was with us during this. He came up with some evidence from the State of Missouri that I thought was quite remarkable. He was talking about the administration of the Medicaid program, how they have been able to file and get out from under the red tape of the Federal Government. The year prior to their being able to administer the Medicaid Program with the amount of money that they had, they reached some 600,000 families throughout the State of Missouri. The next year, or the year following the year that they were able to take over the total jurisdiction and control and administration, and not under the red tape of the Federal Government—and this was done, I might add, under a Democrat administration, a Democrat director of the department of human services for the State of Missouri—they were able to use that same amount of money and reach 900,000 families. In other words, 50 percent more services were given to families just by eliminating the unnecessary trip and expense and red tape of the Federal Government.

I believe it has been our policy to get as many of these things back to the local level. Having served myself in the State legislature, having served as a mayor of a major city, Tulsa, OK, for three terms, I can tell you that the closer you can get to the people at home, the better a program will be administered.

On welfare, we spent some time looking at the welfare system. The President of the New York State, who ran for President, when Bill Clinton ran for the Presidency of the United States, he had a pretty good welfare reform system. In fact, the welfare reform system that
he advocated during the time that he ran for President of the United States had work requirements, had elements in it that were precisely the elements of the welfare reform package that passed the House of Representatives and then passed the Senate by a vote of 87 to 12. It was a shock to everyone, even on his own side of the aisle where 60 percent of the Democrats voted to support this, when he came out and vetoed it. I would like to think that America woke up during the demagoguery of the Medicare reform. I know that many—

The PRESIDING OFFICER. The Chair notifies the Senator that his time has expired.

Mr. INHOFE. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. One minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, let me just comment that many editorial writers around the country that normally are more of a liberal persuasion came out and disagreed in favor of the Republicans and the fact that we recognized that we have a system that was going into bankruptcy. I ask unanimous consent that these be printed in the Record, the two editorials from the Washington Post that made this very clear. The names of the editorials are “Medagogues” and “Medagogues, Cont’d.”

The last sentence of the second editorial reads, “The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and duck responsibility, both at the same time. We think it’s wrong.” And America thinks it is wrong.

Then being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 18, 1995]

MEDAGOGUES

Newt Gingrich and Bob Dole accused the Democrats and their allies yesterday of concocting a campaign based on distortion and fear to block the cuts in projected Medicare spending that are the core of the Republican effort to balance the budget in the next seven years. They’re right; that’s precisely what the Democrats are doing—it’s pretty much all they’re doing—and it’s crummy stuff.

There’s plenty to be said about the proposals the Republicans are making; there’s a legitimate debate to be had about what ought to be placed in Medicare and what ought to be placed next to the elderly generally. But that’s not what the Democrats are engaged in. They’re engaged in demagoguery, big time. And it’s wrong.

Medicare and Medicaid costs have got to be controlled, as do health care costs in the economy generally. The federal programs represent a double whammy, because they are more than any other factor, account for the budget deficits projected for the years ahead.

They are therefore driving up interest costs even as they continue to rise powerfully themselves. But figuring out how to contain them is enormously difficult. More than a quarter of the cost, and the growth in the cost, of the Medicare programs for health care; hospitals and other health care institutions depend on them for income; and you cut their costs with care. It’s extremely hard to. Medicare is a political Edsel, a popular Edsel. And they deal with because the elderly—and their children who must help care for them to the extent the government doesn’t—are so potent a voting bloc.

The congressional Republicans have convinced the skeptics who said they would never attack a program benefiting the broad middle class. It was a plan that explicitly included no cuts to protected Medicare costs by (depending on whose estimates you believe) anywhere from $190 billion to $270 billion over the seven-year period. It’s true that they’re also proposing a large and indiscriminate tax cut that is a bad idea and that the Medicare cuts would indirectly help to finance. And it’s true that their cost-cutting plan would do—in our judgment—some harm as well as good.

But they have a plan. Enough is known about it to say it’s credible; it’s gusty and in some respects inventive—and it addresses a genuine problem that is only going to get worse. What will be the effect of the past five years of unrelenting and fruitless tinkering with the program to cut projected Medicare costs by (depending on whose estimates you believe) anywhere from $190 billion to $270 billion over the seven-year period? It’s true that they’re also proposing a large and indiscriminate tax cut that is a bad idea and that the Medicare cuts would indirectly help to finance. And it’s true that their cost-cutting plan would do—in our judgment—some harm as well as good.

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the Energy Committee on at least 6 or 7 of these bills. They were added on the floor into this big package without them ever being reported out of the Energy Committee or having a hearing in this Congress. Some had a hearing in the last Congress—Mr. President, those are issues that is in a big deal. They should be reported out of the committee, but they were not.

The other point is, the Senator from New Jersey has indeed not held all bills. The distinguished Senator from Alaska alluded to the fact that a bill that he was interested in moved without any problem. So let us get that housekeeping matter out of the way first. We could move almost 30 titles by voice vote.

Let us get to the real issue here, which is the Utah wilderness bill, which is one of the titles, which is the title that I strongly oppose. Why do I oppose this? This is the most important public lands bill since the Alaska land bill of 1960. This is the most important public lands bill since the Alaska land bill over 15 years ago.

What are we talking about here? We are talking about declaring a part of Utah wilderness. There are two areas in question. One is the basin and range area. It is a vast area surrounding Salt Lake City, an area of salt flats and small mountain ranges. The writer John McPhee says that “Each range here” in the basin range “is like a warship standing on its own, and the Great Basin is like the ocean of loose sediment with these mountain ranges standing in it as if they were members of a fleet without precedent.” So one of the areas we are talking about is this unique area, basin and range.

The other area we are talking about is the great Colorado Plateau in southern Utah. The part of Utah that Harold Ickes, the first Secretary of the Interior during the administration of Franklin Roosevelt, said almost the whole part of Utah should be a national park, that almost the whole part of that southern part of Utah should be a national park.

It is a vast plateau and canyonlands of incredible beauty, vast plateau like the Kaiparowits Plateau or the Dirty Devil Wilderness, some of the most remote and rugged landscapes in the West. Yet some of the most interesting records of those who inhabited this land before America—before Europeans ever arrived—lands in the United States also located in this section of Utah, and the remains of the great Anasazi, who were here long before the first European set foot on this continent. All of this vast beauty is in southern Utah.

It is a genuine wilderness: Remote, rugged, deep canyons that are sandstone cut, with deep rivers. It is the place of Zion and Bryce and Canyonlands. It is unique. It deserves wilderness designation.

We are on the Senate the Utah wilderness bill. What is the problem with the Utah wilderness bill? Well, too little land is protected as wilderness; and too few protections are given to that land. In addition, the inventory process, the process by which the Bureau of Land Management determined which areas should qualify as wilderness, was flawed from the beginning.

In the State of Utah, there are 22 million acres under the control of the Bureau of Land Management. Under the bill before the Senate, 2 million of these acres—2 million of those acres—will be set aside as wilderness. That is all, 2 million acres.

Now, there are too few protections, as well. Just take the vast Kaiparowits Plateau, a plateau of juniper forests, trees that have been there long before the first European set his foot forth on the United States. It is a vast wilderness, one of the most vast wildernesses in the lower 48 States. Under this bill, about 50,000 acres of that plateau will be transferred to the State of Utah, an area for which a Dutch company is already negotiating to put a gigantic tar sands mine—coal mining in the heart of that wilderness.

What about Dirty Devil? There, of course, the area that is excluded will be set aside for tar sands development. The legislation also would allow new roads to the plateau. One should not think that in the Colorado Plateau this issue was settled in the 1960’s when the dams that were proposed at Dinosaur Monument were defeated because the people of this country realized that the lands and time standing still needed to be protected, should not be blocked by a dam with another lake going up the Canyonlands and destroying both the record of human habitation and the possibility of walking in the Canyonlands.

What else? Well, roads and motor vehicles are allowed to an unprecedented extent in areas which are wilderness. Also, you give the State the right to designate which areas it wants without regard to environmental sensitivity, and with great concern that the lands that the Federal Government would exchange with the State will not be of equal value. In fact, in the Interior Department’s comment on this bill, as embodied in the report, the Deputy Assistant Secretary for Land and Minerals Management, Sylvia Baca, says the following:

“The tracts proposed to be offered by the State have high economic value for mineral development. The fair market value of these lands may be 5 to 10 times more than the value of the lands that would be transferred to the Federal Government. Despite the imbalance in favor of State, the bill provides for increased compensation to the State if encumbrances on Federal lands being transferred result in an imbalance, but not the other way around. This would only add to the inequality of values in this proposed exchange.”

Mr. President, if the coal mining development is not enough, if the tar sands development is not enough, if the oil exploration is not enough, if the new dams are not enough, if the roads and motor vehicles are not enough, if the kind of unequal value trade between State and Federal Government is not enough, what about this provision in the bill that sets aside the 2 million acres for wilderness, but attaches no water right to this wilderness land? These are areas that get 10 to 12 inches of rain a year—Mr. President, which areas if water is diverted, is used in another way, and does not get to the wilderness? Whatever fragile life is there dies, and it is over.

In Nevada, a State not totally dissimilar, not nearly as remote in some of its beauty as southern Utah, but still a remarkably beautiful State with a very similar topography, when the Nevada wilderness bill passed, the authors of that bill made sure that there was water attached to that wilderness so that you would not have a wilderness, essentially, destroyed.

Finally, in terms of objections to the bill, there is a so-called hard release language. Now, the release language, which basically means when you do a coalition bill you bill sell you lands that are not wilderness, but you do not release them forever and ever, because at some point you might want to consider whether they are wilderness. The bill as originally drafted said that the lands released would not be sold, only nonwilderness multiple uses only—that was dropped—and a substitute was offered that said “the full range of uses.” However, the existing amendment, the existing section of the bill, also says that “lands released shall not be managed for the purpose of protecting their suitability for wilderness designation.” This is a kind of belt and suspenders approach. The previous version of the bill as reported out had both belt and suspenders, two protections against further wilderness designation. The current version got rid of the suspenders but leaves the belt. It is still unprecedented in wilderness bills.

Mr. President, these are all serious flaws with this bill that need to be addressed that might be able to be addressed. The flawed process is what makes me doubtful.

Just a brief recapitulation: in 1964 the wilderness bill passed. What was the definition of wilderness in a 1964 bill? “A wilderness, in contrast with areas where man in his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are maintained in their natural condition.” This is the definition of wilderness.

In 1976, that was applied to Bureau of Land Management lands about 280 million acres nationwide. And in 1976, 1977, the Bureau of Land Management was given 15 years to identify which areas under its control would qualify for wilderness, possibly, to inventory possible wilderness areas. But do you know what happens in Utah? In Utah, they completed it in 3 years. They inventoried all 22 million acres controlled by the Bureau of Land Management. At the end of that year, they
eliminated 20 million acres for consideration as wilderness.

What was the basis upon which they eliminated these 20 million acres? It was that they lacked outstanding opportunities for solitude or primitive recreation. But that is not what this is about. The real irony is that the Senator from New Jersey, who comes from a State that is 89 percent urban, is making this argument in a State that is 87 percent urban—one of the most urbanized areas of the West, the most urbanized area of America. People from this country are coming into the cities.

So I believe that this would even be in the long-term interest of the State. But that is not what this is about. The Utah economy is really not my province. It is my observation, as somebody who has looked at these issues. But what I want to preserve is the possibility for silence and the possibility for time that exists only in a wilderness.

I would like to read, in closing, just two things from a book prepared by several writers about the Utah wilderness. One is by John McPhee, who wrote in “Basin and Range” the following:

In 1991, BLM came up with its final designation. That flies in the face of our bill to designate wilderness in the broad wilderness bill.

McPhee writes:

McPhee says:

But today we know southern Utah, in the heart of the Colorado Plateau, for what it really is. The geologic events were so cataclysmic and so recent, and the frail soils so easily eroded, that the Colorado Plateau holds more graphic displays of exposed formation than anywhere on earth. The dry air has preserved the ancient people’s durable and magical rock art, villages, kivas, pots, and baskets to a degree found nowhere else.

Yet our society seems to lack the will to care for the Canyon Country. The Utah congressional delegation wants to declare some of these wildness study areas [WSA’s] by the BLM in San Juan County, UT—in Utah’s southwestern corner—tourism has only increased from 2
percent in 1985 to 5 percent in 1995. In Millard County, on the western half of Utah, BLM designated acres as WSA's. Guess what the impact to their tourism industry was? Good guess—zero.

In my opinion, these kinds of numbers help to buttress what I told you at the outset—small—character of the land. That is expected when it's appropriate. But, he is not authorized, nor should he be, to use an existing authority to protect and preserve that pristine character to future generations. It is not up to the wilderness system, at a future date.

And, if that concept bothers the Senator from New Jersey then he should go back and change FLPMA or introduce a bill that requires another round of studies and review by the BLM—not as one of the principal authors of this bill but as a Senator from Utah.

Besides which, the BLM wilderness inventory had a beginning. It should also have an end, like this issue, and hopefully before Utah celebrates its 200-year birthday in 2096.

Second, the Senator indicated that "four million acres of Utah's red rock wilderness will be left open for development." He then went on to list several areas that fall into this category.

Several times yesterday it was asserted that the passage of our bill will lead to a massive immediate destruction of nondoned lands. I do not know how many times I need to say this, but that statement is simply not true. In fact, it is offensive to me not only as one of the principal authors of this bill but as a Senator from Utah.

Our critics continue to conjure up images of bulldozers lined up to advance on these BLM lands. Those who rely upon such images to advance their cause purposely ignore the desire—not to mention our entire State government—to protect these lands from inappropriate and destructive activities.

In addition, I mentioned the plethora of environmental laws and conservation regulations passed since 1964 that provide layer upon layer upon layer of protection for these lands. I will not go through the list again, but they are listed on the displayed chart.

This argument should not even be a part of this debate. Yet, it continues to be used in the propaganda and rhetoric of the elite special interest groups.
Unlike some, we have confidence in BLM's professional land managers to continue making objective decisions on the future uses of these lands in accordance with the law. By the way, I would like to remind the Senator from New Jersey that we include in our proposal more than 16,000 acres in Fish and Owl Creek Canyon, more than 220,000 acres of the Kaiparowits Plateau, and more than 75,000 acres of the Dirty Devil area.

Also, let us surprise the Senator to know that more than 80 percent of the acreage in our proposal is located near or below Interstate 70, the highway that divides Utah in half. John Sieberling, the former representative, once said that if he had it his way, he would make a national park of all the land south of Interstate 70, and if the Senator from New Jersey had his way he would make the entire area wilderness. Let us be clear about this: our proposal protects Utah's red rock wilderness.

The Senator from New Jersey referenced the possible development of coal leases within the Kaiparowits Plateau by the State of Utah. Yes, it is true that the State of Utah has identified these BLM lands—which are now public lands—where coal is believed to exist. Let us be clear about that: they are not being managed as wilderness—as one of 25 tracts of land it desires to exchange with the Federal Government.

But, the Senator did not say that these leases are currently under suspension by the Department of Interior pending completion of an environmental impact statement that will determine if mining is ever going to be allowed in that area.

Once again, as he did yesterday, the Senator is second guessing the activities of BLM's own personnel, only this time it deals with this EIS. He also accuses the State of Utah for mismanaging this area. Senator B.RADLEY referenced the possible development of coal leases within the Kaiparowits Plateau by the State of Utah. But, nevertheless, this bill has nothing to do with whether or not this area will ever be mined.

Fourth, the Senator indicated our bill "denies a Federal water right to designated wilderness areas designated by this bill." The Senator from New Jersey has evidently not read the language carefully. It is true that our bill does not create a Federal reserved water right for areas designated by the Senator. That is because we do not want to preempt State water law or to go around the State water appropriation system. But, it does not mean that the Federal Government cannot acquire a water right for designated wilderness areas.

Utah water law follows the concept of the prior appropriation doctrine. It has been the basis for more than 90 years of State administration of surface waters. All major rivers and stream systems in Utah have water rights established under this principle. The result is a fine tuned system relying on diversions, return flow, revisions, mingled with some storage reservoirs. Any new filing or alteration of the pattern of water use literally sends ripples throughout the total system.

Unlike my colleague, we do not want to follow the typical Washington attitude that says we should preempt State law every time the Federal Government wants something from our States. Why can't we have the Federal Government abide by State laws once in a while when performing a Federal task? The Federal Government can obtain a water right in the State of Utah, and here is how:

Under Utah State water law, one must put a water right to "beneficial" use. That is, it must be applied to the land, to home use, or to other consumptive uses in order to maintain the right. However, there is an exception to the "beneficial" use requirement.

Two divisions within the Utah Department of Natural Resources—the Division of Geological Survey and the Division of Wildlife Resources—can legally acquire a water right and leave a determined quantity of water in a stream—an "instream" flow, as it were—that then becomes that particular water right's "beneficial" use.

Under our bill, the BLM is provided the ability to work cooperatively with these two State divisions to create an "instream" flow to avoid the potential destruction of a wilderness area, in the unlikely event this occurs.

The process would be:

First, BLM acquires a water right from an upstream owner anywhere in the State—a rancher, a municipality, a private company, etc. Second, the right is assigned or deeded—transferred—to one of the two State divisions previously mentioned.

Third, an instream flow is created. In the fall of 1994, this occurred. The Division of Wildlife Resources acquired a water right from a private corporation and created an instream flow for wildlife purposes on 82 miles of the San Rafael River in central Utah.

The alternative to this language—an unqualified Federal reserve water right—would leave an ominous cloud over every existing water right in the State of Utah.

There is no expressed or implied Federal reserve water right in our language, but that does not in any way prevent the Federal Government from acquiring a water right following the proper State procedures.

Fifth, our language "permits the State of Utah to exchange State lands for Federal lands of approximate equal value." The Senator from New Jersey is not correct. The value of the Federal lands involved may be greater in value than the State lands.

Last December, the committee adopted our proposal to establish an exchange process whereby the value of the lands involved in the exchange would be determined based on national appraisal standards. While the BLM thinks the Federal lands are 5 to 10 times greater in value than the State lands, the State of Utah thinks the Federal lands are less valuable, and the Wilderness lands are greater in value than the Federal lands. That is why the notion of a value, determined by recognized appraisers, and negotiated between the two parties, appears the soundest methodology to reconcile these differences. It does not matter, really, what either side is saying right now on the value question—it will be determined at a later time.

The universe of lands to be exchanged has been determined since the State of Utah has no choice at all to determine which lands it would trade to the Federal Government, it only makes sense to allow the State to determine which Federal lands it desires. It has identified 25 different parcels, ranging form speculative coal deposits to speculative natural gas to potential real estate development, and all in the name of benefiting Utah's school children.

The Senator is not correct. The Federal Government does not have to approve the transaction. Once the State makes an offer of lands to be exchanged, the two parties will sit down
and conduct “good faith” negotiations on the various aspects of the trade. If a mutual decision is not reached, then the matter can be pursued in the courts.

Concern was expressed regarding our early discussion about the lack of involvement by the Secretary in crafting each exchange. I believe the language we have included in the substitute amendment remedies that situation and makes the Secretary a full player in this exchange should he desire to be involved.

And finally, the Senator indicated that our proposal contains “broad exceptions to the Wilderness Act of 1964,” meaning he believes we are rewriting the definition of wilderness by allowing certain activities and facilities to be undertaken within designated wilderness areas.

This criticism goes to the so-called special management directives contained in our proposal.

The special provisions really are not that special after all. There are plenty of examples of previous public lands legislation containing such provisions.

A Congressional Research Service report, completed last July, concluded that the directives in S. 884 are comparable or related to similar language in 20 existing public laws and over 40 separate statutes adopted by Congress since 1970.

What do these special management directives do? They allow those activities, based on valid existing rights and consistent with the Wilderness Act of 1964, to continue in areas designated as wilderness. They are included to address the potential “on-the-ground” conflicts that are unique to Utah’s BLM lands, such as livestock grazing, the gathering of wood by Native Americans, and the presence of water facilities used for agricultural, municipal, and wildlife purposes, to name a few.

The critical point here is that these rights predate the designation of lands as wilderness.

We are not rewriting the definition of wilderness. On the contrary, we are merely adhering to the principles of the 1964 Wilderness Act and the history of wilderness legislation in the past two decades. The Wilderness Act of 1964 does not abandon or ignore rights that predate wilderness designation, and practically every wilderness bill passed since the late 1970’s contains special language to protect these rights and to address any site specific conflicts that might arise in the exercise of these rights.

This language enables us to designate certain lands as wilderness that might be otherwise excluded under the 1964 act due to the conflict with valid existing rights.

But I would ask the Senator the following questions regarding his concerns for our special management directives:

Where was he when we passed the Okefenokee National Wildlife Refuge Wilderness Act, the Boundary Waters Canoe Area Wilderness Act, and the Florida Wilderness Act of 1984 that provided for the continued use of motorized boats or other watercraft in designated areas?

Where was he when we passed the already mentioned Boundary Waters Canoe Area Wilderness Act that provided for the continuation of snowmobile use in designated areas?

Where was he when we passed the Central Arizona Wilderness Act of 1991 that allowed the continued lands of aircraft and the future construction and maintenance of small hydroelectric generators, domestic water facilities, and related facilities in designated areas?

Where was he when we passed the Endangered American Wilderness Act of 1978 and our own Utah Wilderness Act of 1984 providing for sanitary facilities in designated areas?

Where was he when we passed the Colorado Wilderness Act of 1990 allowing motorized access for periodic maintenance and repair of a transmission line ditch in a designated area?

And, where was he when we passed the Colorado Wilderness Act of 1993 providing for the use, operation, maintenance, repair, modification, or replacement of existing water resources facilities located in designated areas?

The point is not to single out any of these laws we did not do, but to merely demonstrate that special management directives are designed to address the on-the-ground conflicts unique to the areas designated by these laws. That is what we are providing for in our bill—those situations that are unique to Utah’s lands. It is, as my colleagues will note, typical of the way we have developed public land policy in this body.

I would also state for the record two other items.

One, the Senator continues to mention the provision in our bill that provides for the continued use of motorboat activities in designated areas. First, these activities are only allowed if they predate the designation. And, second, and most importantly, our language was modified in the committee to ensure that it was consistent with the 1964 act.

Also, he spoke of the language in our bill permitting low-level military overflights. Let me remind the Senator that this language was provided to us by the Pentagon, and is nearly identical to similar language included in the California Desert Act. We have added language requested by the Air Force that recognizes Hill Air Force Base as the gateway to the Utah Test and Training Range, located in Utah’s west desert area, that is the only training facility in the United States on which every aircraft in the Air Force inventory trains.

In closing, let me also say that our bill has been characterized as lacking large blocks of designated wilderness through which a traveler could wander from one time zone to another. Well, in our bill we may not extend any wilderness area beyond the mountain time zone, but it does have several large contiguous areas of spectacular wilderness all linked together in huge blocks of area. A visitor could never see another human being for days in these areas.

These areas include:

- Desolation Canyon in central eastern Utah through which the Green River flows—a total of 291,130 acres. This area may not cross any time zones, but it is located in three different counties.
- Fiftymile Mountain in south central Utah—as mentioned, this is on the Kaiparowits Plateau and consists of 125,823 acres.
- North Escalante Canyons—this area, once pursued to become a national park, totals 101,896 total acres.
- Colorado Canyons—this area appropriately named is a showcase of topography and wildlife, and consists of 132,714 acres, all of which is located in Grand County, UT.

And, last but certainly not least is the San Rafael Complex—located in the heart of central eastern Utah and a topographer’s dreamland, this area consists of 393,384 acres.

If one looks at where some of the other areas designated by bill are located, you will note that many of them are located near some of Utah’s national parks to form blankets of pristine wilderness, such as the area near Canyonlands National Park, Capitol Reef National Park, and Glen Canyon National Recreation Area.

Our legislation truly captures Utah’s crown jewels of BLM lands, including high mountain ranges, deep river canyons, and red rock deserts. These are reflective of Utah’s premier scenic landscapes, and why we in Utah are not shy in stating that it took God 6 days to create Utah before he made the rest of the world with leftover parts.

Again, I urge the Senator from New Jersey to take another careful look at the facts and at the specific language in the substitute amendment. I think he will find reassurances there that this is a good bill for Utah and a good bill for the environment.

Mr. President, I have listened to this now for the past 3 days. I admire my friend from New Jersey. He is a fine person. He represents his State well.

But, he does not know anything about Utah. However, I would like to think that the Governor of Utah, both Senators, all three Congress people, virtually everybody in the State legislature, everybody in the PTA, school districts across the State, and 300 Democratic and Republican leaders, political leaders know just a little bit better, just a little bit more, about Utah than the distinguished Senator from New Jersey.

I have heard all of what I can bear to hear with regard to silence and time and having respect for them. We understand that. In Utah, we know what silence and time is because we have experienced them throughout our entire
The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Murkowski substituted amendment to H.R. 1296, providing for the administration of certain Presidio properties at minimal cost to the Federal taxpayer:


The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Murkowski substitute amendment to H.R. 1296 shall be brought to a close?
The yeas and nays are ordered under rule XXII. The clerk will call the roll.

The legislative clerk called the roll.
The yeas and nays resulted—yeas 51, nays 49, as follows:

[Roll Call Vote No. 54 Leg.

YEAS—51

Abraham
Ashcroft
Bennett
Brown
Burns
Campbell
Coats
Craig
Dole
Domenici
Fareed
Frances
Ford
Frist
FYE—49

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryant
Bumpers
Byrd
Cohlen
Conrad
Deschile
Dodd
Dorgan
Edward

Lugar
Gramm
Grims
Gregg
Hatch
Hallfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnson
Kassebaum
Kempthorne
Kyl
Lott
Moseley-Braun
Feingold
Reifstein
Ford
Glen
Harken
Hollings
Hollingsworth
Inouye
Kennedy
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski

NAYs—49

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryant
Bumpers
Byrd
Cohlen
Conrad
Deschile
Dodd
Dorgan
Edward

Feingold
Feinstein
Ford
Glen
Harken
Hollings
Hollingsworth
Inouye
Kennedy
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski

VOTE

Mr. DOLE. Mr. President, I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, we have put the crown jewels of Utah wilderness in this bill. I happen to believe that when you have the whole congressional delegation, the Governor, the legislature, the schools, the farmers, and virtually every organization except these environmental extreme organizations, all for this bill in a State that has protected its beauty itself, we do not need to be told by some Senator from New Jersey how to protect our State—or from any other State. We know how to do it. We know it is beautiful, and we are going to keep it that way, even while it is subject to these environmental laws.

It is almost offensive what has been going on here. If you look at what they recommend—looking at the low-lying sagebrush lands along highways—where is the silence and solitude there? It is crazy.

When we start ignoring our colleagues who have gone through a process in this manner in a reasonable, decent, honorable way, having had to bring the one side along and having had to bring the other side along—and, now we are going to ignore all this because we want to do some national environmental agenda—that is when this particular body is going to have a lot of troubles in the future. That is all I can say. I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. The time having expired, the hour of 10:36 a.m. having arrived, the motion having been presented under rule XXII, the Chair directs the clerk to read the motion to invoke cloture on the Murkowski substitute amendment to H.R. 1296.

The legislative clerk read as follows:

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Fareed
Frances
Ford
Frist

Lugar
Gramm
Grims
Gregg
Hatch
Hallfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnson
Kassebaum
Kempthorne
Kyl
Lott
Moseley-Braun
Feingold
Reifstein
Ford
Glen
Harken
Hollings
Hollingsworth
Inouye
Kennedy
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski

NAYs—49

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryant
Bumpers
Byrd
Cohlen
Conrad
Deschile
Dodd
Dorgan
Edward

Feingold
Feinstein
Ford
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VOTE

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The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, we have put the crown jewels of Utah wilderness in this bill. I happen to believe that when you have the whole congressional delegation, the Governor, the legislature, the schools, the farmers, and virtually every organization except these environmental extreme organizations, all for this bill in a State that has protected its beauty itself, we do not need to be told by some Senator from New Jersey how to protect our State—or from any other State. We know how to do it. We know it is beautiful, and we are going to keep it that way, even while it is subject to these environmental laws.

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Ford
Frist

Lugar
Gramm
Grims
Gregg
Hatch
Hallfield
Heflin
Helms
Hutchison
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Johnson
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Kempthorne
Kyl
Lott
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Hollingsworth
Inouye
Kennedy
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Kerry
Lautenberg
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Levin
Lieberman
Mikulski

NAYs—49

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryant
Bumpers
Byrd
Cohlen
Conrad
Deschile
Dodd
Dorgan
Edward

Feingold
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UNANIMOUS-CONSENT AGREEMENT—S. 4
Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany S. 4, the line-item veto bill, and that the reading be waived.

Mr. DASCHLE. Reserving the right to object. There does not appear to be any disagreement with regard to the Presidio bill itself. That bill has broad-based, virtually unanimous support, so it is my hope that we can pass at least that bill by unanimous consent.

So I ask unanimous consent to strip all amendments and motions and to pass the Presidio bill in its own right. The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. I hope we can resolve that matter. In light of the fact we need to continue to find ways in which to move the legislative agenda, I do not object to the majority leader's request. The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report. The legislative clerk reads as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4), a bill to grant the power to the President to reduce budget authority, 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 conference.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of March 21, 1996.)

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

PRESIDIO LEGISLATION

Mr. MURKOWSKI. Mr. President, in response to the minority leader's unanimous consent request, obviously we are all sensitive to the merits of the Presidio. The California delegation has worked very, very hard on this. But as everyone in this body knows, this was a package that was put together with great commitment and great understanding that, indeed, in order for it to pass the Congress, it had to stay as a package.

Everybody knew that when we went in, and to suggest action by the U.S. Senate would be acceptable to the House everyone knows is unrealistic. So we are set with the reality here.

It is the intention of myself, as chairman of the Energy and Natural Resources Committee, to again pursue the package. It is the largest single environmental package that has come before the 104th Congress. We are all disappointed at the action that was taken by adding on the minimum wage amendment, but that was something that we believe fit by the majority to do, and we are left with this reality today, which is, indeed, unfortunate.

It is my intention to continue to pursue working with the Members who objected to the various aspects of the package, to move it forward in this legislative year. That is the pledge I want to make to the minority and the minority leader as well.

I want everybody to understand the rationale behind the objection. This would not have gone in the House as a freestanding Presidio bill. Everybody is aware of it.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, let me just say, the vote just cast had nothing to do with minimum wage. It had everything to do with simply one provision dealing with Utah wilderness. There was no understanding with regard to this package, as the distinguished Senator from Alaska has called it.

Obviously, each one of these bills merits consideration in and of its own right. There is no objection to the package were we to remove the Utah wilderness bill. That is what this vote was all about. But there is no disagreement whatsoever with regard to the Presidio bill on either side of the aisle, as I understand it, and to hold the Presidio hostage to all the other issues seems to me to be unfair.

I yield to the Senator from California for a brief comment and a question.

Mrs. BOXER. Yes, I do have a question.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. BOXER. Mr. President, let me just say, the vote just cast had nothing to do with minimum wage. It had everything to do with simply one provision dealing with Utah wilderness. That is what this vote was all about. But there is no disagreement whatsoever with regard to the Presidio bill on either side of the aisle; as I understand it, and to hold the Presidio hostage to all the other issues seems to me to be unfair.

I yield to the Senator from California for a brief comment and a question.

Mrs. BOXER. Yes, I do have a question. I have a comment as well. To my friend, Senator MURKOWSKI, who has worked hard with Members on both sides of the aisle here, the fact is the House has passed the Presidio as a freestanding bill.

Indeed, that is the bill we have marked up. So there is not any reason not to pass the Presidio as a freestanding bill. I would ask my leader on the Democratic side, since he is a cosponsor of the Presidio bill which Senator FEINSTEIN and I have worked so hard on, and as well as Senator DOLE, he is a sponsor of the Presidio bill, will my leader give us his word that he will do all that he can to make this bill a reality? Because I would say to my friends on both sides, the Presidio is deteriorating? We need to get in there and make sure that that land is kept up. It is a priceless jewel. And we have such broad agreement. It just seems a pity that we would catch it up in these other debates.

Mr. DASCHLE. I answer to my friend from California in the affirmative. It is our desire to work with the delegation of California and others who are interested in maintaining the historic nature of this remarkable facility, that we pass the legislation this year. In has been a long, long effort, a tireless effort on the part of my two colleagues from California.

I hope we can successfully complete our work this year. It ought not be held hostage to various pieces of legislation that have nothing to do with the Presidio itself. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Let me yield to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me remind my colleagues of a fact that is in the package there were about 53 individual items. The package was held up almost a year by a Member on the other side who refused to allow the individual issues to come up for action. That is a fact, and the Record will reflect that. Now we are faced with the reality that is to blame for the failure of the package. I think the Record will reflect the reality that this was well on its way to successful consideration of cloture prior to the decision by the other side to put the minimum wage on it, which changed the complexion and the interpretation of the last vote. Many Members looked upon the last vote in actuality as a reference to support for the minimum wage and that it did not belong there. We all know it.

So the responsibility has to be with the minority that chose to allow and support inclusion of the minimum wage on the largest environmental package of this session, the 104th Congress. That is, indeed, unfortunate. Let us be realistic and recognize where the responsibility lay. It lay in holding that package hostage for a year and it lay with the responsibility of putting the minimum wage on it. I thank the Chair and thank the leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I understand it is all right with the Democratic leader if I obtain a consent agreement on the farm bill.

Mr. DASCHLE. That is correct.

Mr. DOLE. Let me do that while we also work out a time agreement on the line-item veto.

UNANIMOUS-CONSENT AGREEMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of a concurrent resolution to be submitted by Senator LUGAR, further, the resolution be considered agreed to, and the motion to table be laid upon its face. It is then

proceed to the conference report to accompany H.R. 2584, the Agriculture Reform and Improvement Act, that the reading be waived, and there be 6 hours
of debate on the conference report to be divided as follows: Senator Lugar, 2 hours; Senator Leahy, 1 hour; Senator Daschle or designee, 3 hours; further, that immediately following the expiration or yielding back of time, the Senate proceed to vote on the adoption of the conference report with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, and I will not object, I will only again point out to my colleague from Alaska that we would enter into a unanimous-consent agreement today for all of the package the Senator from Alaska referred to except the Utah wilderness. We will do it this morning. We can pass that bill by 11:15. It is now 11:14. So if the Senator from Alaska is prepared to drop the one controversial bill we will enter into an agreement today, unanimous-consent agreement, I pass the rest of the bill. If he is prepared to do that, I am prepared to do that right now.

But I have no objection to the request propounded by the majority leader having to do with the farm bill conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Dole addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. Dole. Mr. President, let me add my hope that we can resolve the problem. I know there are a number of projects, including the Presidio, that we support. Hopefully this will pass now and then we get things resolved around here. Maybe we can do this in the next few days. But we would like to in the interim, if we could, do the line-item veto and the farm bill conference report. That will give us some time, if there is any negotiating opportunities, to do that. It is also my hope that we can have a time agreement on the line-item veto. I understand that the distinguished Senator from West Virginia, Senator Byrd, would like us to at least have a negotiating opportunity. In the matter with him at that time.

Mr. Dole. Mr. President, let me indicate on this side of the aisle, for the present time the Senator from New Mexico, Senator Domenici, will be the manager in charge of the time on this side for the line-item veto.

Mr. Bumpers addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. Bumpers. Mr. President, notwithstanding the unanimous-consent agreement, I ask unanimous consent that I be permitted to speak for 2 minutes on the cloture vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. Bumpers. Mr. President, I want to echo what our distinguished minority leader has said. There are over 50 pieces of parks or public lands legislation in the bill on which we just refused to invoke cloture. I have two more pieces left in that package that are very important to me. I received no pleasure in voting against cloture. I have two more pieces left. It is an honor that is given to me.

I do not mind telling you this is a lousy way to legislate. It is like hanging a Damocles sword over your head by saying, ‘‘If you will vote for these 52 goodies, you are going to have to choke this bad one down too’’; 49 Senators said they were not willing to do that.

They are all good pieces of legislation. If we want to sit here and talk about who had holds on those bills over the past few months, or the minimum wage bill, that is fine. However, that does not solve anything. As the minority leader stated, within 30 seconds we can pass more than 50 bills, 100 to zip, by simply removing the Utah wilderness bill.

Having said that, let me also say these things are no fun. Nobody has more respect for the two Senators from Utah than I do. Senator Bennett and I have worked together for endless hours trying to reform the concessions policies of the National Park System. Therefore, for me to filibuster and require a cloture vote on something that is so important to the Senators from Utah. But there are times, regardless of how close a friend you may be and how much respect you may have for another Senator, that you have to stand up for something you really feel is critically important. Perhaps the majority leader and the minority leader could sit down with the Senator from Alaska, who is chairman of our committee, and with Secretary Babbitt.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. Bumpers. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Bumpers. And come back to this floor and do something very responsible that is income to the people of this country. If the people of our country saw the Democrats and the Republicans joining hands, to pass more than 50 pieces of legislation in a bipartisan spirit, everybody in America would applaud. I promise you it would lift the morale of the country ever so slightly.

We ought to do it, and we certainly ought to do it before we check out of here tonight. I want to sit down with the two Senators from Utah. I have suggested the majority leader and minority leaders can participate along with the chairman and ranking member of the Energy Committee, and Secretary Babbitt and work on the Utah wilderness bill. I would like to get that contentious item off of the calendar.

Mrs. Feinstein. I agree.

Mr. Bumpers. People operating in good faith around here can do it. I am pleased with the outcome of the cloture vote. I want my colleagues from Utah to know that they are my friends. I hope we can work something out with regards to this legislation. I yield the floor.

Mrs. Boxer. Mr. President, I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Yes. The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. Boxer. Mr. President, I ask unanimous consent to speak for 1 minute on the subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. Boxer. Thank my colleagues for their patience.

I just feel for some of us here in the Senate, particularly the two Senators from California, feel it is an awfully difficult situation when you have worked so long and hard, have built up the kind of bipartisan support that we have for the Presidio, from the majority leader, to the minority leader, to Senator Ben Nighthorse Campbell, who literally came in and saved this thing, to Senator Boxer for being there for us through all the ups and downs of this battle, and to see it all come down in a crashing blow because of another issue, is awfully difficult for all of us.

I do hope that we can work something out on Utah wilderness, either by saying that it will come up in another context on its own—it does deserve the attention on its own. I support what Senator Bumpers recommended, which is a high-powered meeting with the Senators themselves, a high-powered meeting to sit down with those who have taken such an interest in this, Senator Bradley and others, to try and resolve these differences and these problems.

I just want to say that we have a crown jewel of a national park in the Presidio, but if we do not quickly set up a trust and get to work making sure that there is upkeep, that the buildings are put to good and proper use, and that the income from those buildings go to repair the facilities and keep them pristine, we will lose this priceless jewel. I do not think anyone wants that to happen.

I was very pleased that Senator Daschle made a unanimous-consent request to pass Presidio on its own, because I think that we need to keep coming back to that point. There is no controversy here. I was heartened by the majority leader’s comments that he is going to do what he can to make it happen. The clock is ticking on this priceless jewel. I hope we can reach across party lines as we did when we gained all the support to solve the
Senator Murkowski. It is the hope in the distinguished Senator from Alaska, projects, I understand, are not particularly, the one big difference is the fort to resolve the differences. Obvi-
ous problem, if you can go on, on the subject of the Utah wilderness, so that we might be able to get an agreement that would be satisfactory to the two Senators from Utah, as well. I think it is possible. I think that every area is not the same as Yosemite or Yellowstone. They have certain unique characteristics which need to have attention, as well.

I am hopeful, Mr. Leader, that in the ensuing days, perhaps under your aus-
pice, there might be negotiations which could be carried out. At least we should try and see if we cannot get some agreement which can either en-
able the package to move ahead as a package, or enable the Presidio, some-
thing which my colleague just said, does have unanimous consent in this body, to move ahead.

The PRESIDING OFFICER. The majority leader.

Mr. Dole. Mr. President, I am happy to indicate for the record that I would be pleased to try to be helpful in an ef-
fort to resolve the differences. Obvi-
sely, there is a difference. The Utah wilderness provision. The other projects, I understand, are not particularly controversia. I indicate that I am happy to be of help, or to take the leadership and try to bring people to-
gether. I hope we can make some progress on the distinguished Senator from Alaska, Senator Murkowski. It is the hope in the next few days we can make some progress.

LEGISLATIVE LINE-ITEM VETO
ACT OF 1995—CONFERENCE RE-
PORT

The Senate continued with consider-
ation of the conference report.

Mr. Dole. I understand the disting-
guished Senator from West Virginia is on his way to the floor. Hopefully, we can have the agreement before we con-

The Senator from New Mexico will be here, as will others who are interested in this matter. Hopefully, we will use the full 10 hours, have a vote early this evening, and then take up the farm bill conference report tonight.

Mr. McCain. Mr. President, do I un-

Having said that, I am hopeful that every Member of this body could real-
ize the longer it takes to get a bill, the more in jeopardy that plan becomes. Because of the rains, because of the fact that many of these buildings are now boarded up, they are subject to in-
teruption, to vandalism; they are subject to the absence of an adequate policing authority on that 1,500-acre post. The Presidio, by each day of delay, is placed in jeopardy.

I am also hopeful, and I address these remarks to the distinguished majority leader, that he would be willing to be-
come a party to negotiations which I think can go on, on the subject of the Utah wilderness, so that we might be able to get an agreement that would be satisfactory to the two Senators from Utah, as well. I think it is possible. I think that every area is not the same as Yosemite or Yellowstone. They have certain unique characteristics which

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THE EPA STUDY ON ACID RAIN

Mr. Moynihan. Mr. President, New
York State, or upstate New York, has been shocked—I think that is a fair term—and finds itself in near disbelief to learn that the Environmental Protection Agency [EPA] has closed the Ithaca station, which is part of a broad net-
work of monitoring stations that collect data critical to understanding the impact of acid rain on the Adiron-
deralds. There is not enough institutional memory around Washing-
ton, but one should think the EPA would know that the concern about acid rain began with the disappearance of trout from a number of lakes in the higher Adirondacks. This was a puzzle and, in the end, it was resolved by a fish biologist at Cornell University, Dr. Carl Scofield, who traced the cycle: acid rain caused by increasingly acidified air released aluminum from the granite surrounding the lakes. That aluminum leached into the lakes and was absorbed into fish gills. The fish died.

In 1980, I obtained approval of legisla-
tion—the Acid Precipitation Act—which was based on a bill I introduced here in the Congress the year before. My bill was incorporated as title VII into the Energy Security Act of 1980—
Public Law 96-294—and directed the EPA to study, over a 10-year period, just what was going on—not to panic, but to go screaming to high Heaven that the skies were filled with awful substances that would burn holes in our children's heads, and things like that—but just to say, "What is this?"
The death of former Senator Edmund S. Muskie

Ms. SNOWE. Mr. President, I rise today with a heart full of sadness, reflection, and fond memories of one of the true giants of this institution—former Senator Edmund S. Muskie of Maine.

Like millions of Americans across the country, I awoke Tuesday to the news of Ed Muskie’s passing. My heart goes out to his wife, Jane, their five children, grandchildren, and the entire Muskie family. I hope that their grief is tempered with the knowledge that their loss is shared by a Nation grateful for the life of a man who gave so much.

Ed Muskie was a gentle lion. He sought consensus, but backed down from no one. He fought for what he believed in, and was loyal to his country. His greatest goal was to leave this Earth a better place for the next generation of Americans to come. And he succeeded.

Mr. President, as every citizen of my home State knows, Ed Muskie transformed the political landscape of Maine. Before he was elected Governor in 1954, Ed was fond of saying “the Democrats in Maine could caucus in a telephone booth.” Well, much to the chagrin of some Republicans, Ed Muskie’s election as Governor changed all that. He was literally the creator of the Democratic Party in Maine. After two 2-year terms as Governor, he went on to become the very first popularly elected Democratic Senator in Maine’s history. And ultimately, his distinguished career culminated in his service to this Nation as Secretary of State.

But of all the positions he held in public service, it was here—as a Member of this institution, Mr. President, that Ed Muskie left his most indelible mark on history.

Whenever Washington gets mired down in partisan battles, I think of the example set by Senator Muskie and his Republican colleague, the late Senator Margaret Chase Smith, who died last year. They worked together across party lines on behalf of the people of Maine and the Nation. Although they may have had differences, they were united in their dedication to public service and to reaching consensus. They represented the best of what bipartisanship has to offer.

In our present-day budget battles, I think of Senator Muskie, who helped shape the modern budget process as the first-ever chairman of the Budget Committee. Ed possessed a rare wisdom and discipline which allowed him to express in very simple terms why it is so difficult to achieve fiscal responsibility in the Congress. “Members of Congress,” he once said “have won reelection with a two-part strategy: Talk like Scrooge on the campaign trail, and vote like Scrooge on the Senate floor.” Ed brashlyed that incisive wit many times in this very Chamber, Mr. President, and perhaps it was this humor, along with his commonsense approach to political life, that made Ed Muskie so effective throughout his remarkable career.

During his 21 years in the Senate, Ed Muskie was known for his moderation but he did not hesitate to tangle with his colleagues when he felt passionately about an issue. His reputation as a fighter was established early in his Senatorial career when he went head-to-head with another giant of this body, Senator Lyndon B. Johnson.

One day, as the story goes, the freshman Senator from Maine decided he just could not support the majority leader on a particular issue. Now, crossing the leader of your party is always risky, but that risk took on added significance when the leader was Lyndon Baines Johnson. But possessing a stubborn streak of downeast Yankee independence that perhaps only a fellow Mainer can understand, Ed held his ground. He would not back down.

So, in his typically forgiving—and nonvindictive—way, LBJ promptly assigned the freshman Senator his fourth, fifth, and sixth committee chairs.

From this rather dubious beginning, Ed Muskie landed a seat on the not-so-choice Public Works Committee. The rest, as they say, is history. It did not take him long to leave his mark on Washington—or on the land that stretches from the Allagash Wilderness of Maine, to the Florida Everglades, to the Redwood forests of California.

You see, growing up in western Maine, Ed had developed a deep appreciation for the environment. Thoroughly committed and visionary, Senator Muskie helped transform the Public Works Committee and went on to become the founding father of environmental protection in America by sponsoring both the Clean Air Act and the Water Quality Act. These two landmark pieces of legislation have both produced enormous benefits to the health and well-being of our Nation and its people. It is his unwavering commitment to environmental protection that is, perhaps, Ed Muskie’s single greatest legacy to the American people. He was indeed Mr. Clean.

With the news of his passing, my thoughts went back almost 2 years ago to the day—because Ed Muskie’s birthday is March 26. On that day Ed and Jane Muskie, accompanied by their children and grandchildren, came to celebrate Ed’s 80th birthday at the Blaine House, Maine’s executive mansion, as the guests of my husband Gov. Jock McKernan and me. It was a great privilege for us to give Ed and Jane and their family an opportunity to come back to a place that held some of their fondest memories. It was a very special time for all of us. And they spent the night. It was a truly honorable moment in my life.

That evening, Ed spoke passionately about the opportunities he enjoyed as a young man, and of the commitment
and dedication that his parents had to their family and their community. And he spoke of the love and devotion that his father—a Polish immigrant—had for his new Nation.

He spoke of how much his roots in the state of Portland, ME, meant to him. It was those deep roots, along with his strong sense of family, that gave Ed Muskie the foundation upon which he would stand as he became a leading figure in American political life. And he cherished his father’s roots so much that he looked at Snowe and he realized that he viewed it as America giving every opportunity to anybody who sought to achieve.

I was struck with a very real sense of history listening to his reminiscences during that visit. I do not think it was possible for any Maine politician, regardless of party affiliation, to have come of age during the Muskie era and not have been influenced in some way by his presence. He was that preeminent in the political life of my State.

And Ed Muskie was a towering figure in every sense of the word. In his physical stature, in his intellect, in his presence on Capitol Hill, in the extent of his impact on the political life of Maine, and in the integrity he brought to bear in everything he did.

And Ed was thoroughly and proudly a Mainer, with the quiet sense of humor associated with our State. Each year, the distinguished senior senator entertained guests at the Maine State Society lobster dinner at the National Press Club by rubbing the belly of a live lobster, causing it to fall asleep, something only a real Mainer would know how to do.

Personally, I will always remember and be grateful for the warmth, friendship, and encouragement that Ed Muskie gave me over the years. When I entered the U.S. House of Representatives, I was the newest member of the Maine congressional delegation. Ed was the dean of the delegation. We were congressional colleagues for only one year and a half, but our friendship lasted throughout the years. And when I was elected to the seat which he had held, with such distinction, I was touched by his kindness, and grateful for his advice and counsel.

Throughout his life, he never failed to answer the call of duty. He answered the call from the people of Maine. He answered the call from America’s rivers and streams. He answered the call from the President of the United States and a worried Nation when Senator Muskie became Secretary of State Muskie in a moment of national crisis.

Mr. President, 75 years before Edmund Muskie was born, another famous Mainer, Henry Wadsworth Longfellow, captured what I believe is the essence of the wonderful man we remember today. Longfellow wrote:

Lives of great men all remind us
we can make our lives sublime,

And, departing, leave behind us
footprints on the sands of time.

Ed Muskie’s footprints remain on those sands. They are there as a guide for those of us who would follow in his path. They are big footprints, not easily filled. But we would all do well to try.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we are still waiting for the distinguished senior Senator from West Virginia to open the floor. Although we cannot wait, I would like to ask consent that I be permitted to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER SENATOR ED MUSKIE

Mr. DOMENICI. Mr. President, I cannot speak about Senator Ed Muskie without first mentioning that the Democrats did not have a majority in the Senate when Senator Snowe had of his background and his impact on his beloved State of Maine. But it has fallen to me to be, at every stage of my growth in the Senate, on a committee with Senator Muskie.

My first assignment was the Public Works Committee. I was the most junior Republican, and Senator Muskie was the third-ranking Democrat and chaired the Subcommittee on the Environmental Protection Agency. Senator Muskie was the first chairman of that subcommittee. I saw in him a man of tremendous capability and dedication when he undertook a cause. He learned everything there was to learn about it, and he proceeded with that cause with the kind of diligence and certainty that is not so often found around here. There were various times during the evolution of clean water and clean air statutes in the country that we could go in one of two directions, or one of three. Senator Muskie weighed those heavily, and chose the direction and the course that we are on now.

No one can deny that Senator Muskie is the chief architect of environmental cleanup of our air and water in the United States. Some would argue about its regulatory processes, but there can be no question that hundreds of rivers across America are clean today because of Ed Muskie. There can be no doubt that our air is cleaner and safer and healthier because of his leadership. I think one can say that any person needs much more than that to be part of their legacy.

But essentially he took on another job, and a very, very difficult one—to chair the Budget Committee of the U.S. Senate. It fell on me as a very young Senator to be on that committee. I have been on it ever since. I was fortunate to move up. He became chairman in its earliest days.

I might just say as an aside that the Chair would have no problem with me as a chairman, if he were here. We moved the President’s budget—$6 billion in those days—that was a big, big thing, and we had a real battle for it. He would take the Presidents—no matter which one—on with great, great determination.

But I want to close by saying that one of the things I will never forget about him is that he saw me as a young Senator from New Mexico. I had a very large family. He knew them and he knew them. On a number of occasions he personally said that he would very much like to make sure that we did not do things around here to discourage young Senators like DOMENICI from staying here. He thought I was sincere, I think he was, although I was a little shyer than he was. I think he saw us with an awful lot of feeling ourselves up here in trying to establish rules that were very difficult, and he used to regularly say, “I hope this does not discourage you. We need to keep some of you around.”

So to his wonderful family and to all of those close to him, you have suffered a great loss, but I can say that his life has been a great legacy for the country. That ought to lend you in these days some comfort, not some consolation, because that legacy is great. Death is obviously inevitable. He accomplished great things before that day occurred. With that, I yield the floor.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the pending business?

The PRESIDING OFFICER. The conference report on the line-item veto.

Mr. DOMENICI. Mr. President, for the information of the Senate, we have just discussed the matter of a unanimous-consent agreement with Senator BURD, and he indicated he is not prepared to enter into that time agreement just now and would like to use the time and get a better feel for himself as to where we are. I have no doubts we will enter into a similar agreement to the one our majority leader indicated, but it will not be forthcoming at this point. I think that is fair statement.

Mr. President, I note in the Chamber the presence of Senator MCCAIN. It is our prerogative as proponents of the conference to lead off, and I wonder if he would like to make a few opening remarks, and then I would make a few, and then perhaps we would yield the floor to Senator BYRD for his opening remarks.

Since there is no time agreement at this point, I yield the floor.

Mr. MCCAIN. Mr. President, I thank the Senator from New Mexico for everything he has done on this issue. The Senator from Arizona has been around here for a long time and is fully appreciative of the magnitude of what we are about to do. He also has been one who continuously has sought to
improve and to make more efficient, and indeed constitutional, this effort, and I am grateful for his continued support.

I also appreciate the very tough and very cogent arguments that he made while avoiding the very small pejorative promise which I think will prevail today. I never underestimate the persuasive powers of the Senator from West Virginia [Mr. BYRD]. I know he will come forward with a very strong and compelling and constitutionally and historically based argument against what we are trying to do today. I will listen as always with attention and respect.

Mr. President, 1 year ago, the Senate began consideration of S.4, legislation to give the President line-item veto authority. Ten years before that, I began my fight in the Senate to give the President this authority, and 120 years before that Representative Charles Faulkner of West Virginia introduced the first line-item veto bill. Hopefully, a 120-year battle may soon be won. I would like to outline the line-item veto measure agreed to by the Congress. It is a good agreement and a good line-item veto bill.

The House report amends title X of the Congressional Budget Impoundment Control Act of 1974 to add a new part C comprising sections 1021 through 1027. In general, part C will grant the President the authority to cancel and hold any dollar amount specified in law for the following purposes: First, to provide discretionary budget authority; or second, to provide new direct spending; or third, to provide limited tax benefits contained in any law. Congress has the authority to delegate to the President the ability to cancel specific budgetary obligations in any particular law in order to reduce the Federal budget deficit.

While the conference report delegates these cancellation powers to the President, these powers are narrowly defined and provided within well-defined specific limits.

Under this new authority, the President may only exercise these new cancellation powers if the Chief Executive determines that such cancellation will reduce the Federal budget deficit and will not impair any essential Government function or harm the national interest. In addition, the President must make any cancellations within 5 days of the enactment of the law which contains the items to be canceled and must notify the Congress by transmitting a special message within that time.

The conference report specifically requires that a bill or joint resolution be signed into law prior to any cancellations from that act. This requirement ensures compliance with the constitutional stipulations that the President enact the underlying legislation presented by Congress after which specific cancellations are then permitted.

We intend that the President be able to use his cancellation authority to surgically eliminate Federal budget obligations. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law.

The terms “dollar amount of discretionary budget authority,” “item of new direct spending,” and “limited tax benefit” have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit. “Federal budget authority” cannot be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

I wish to emphasize this point again. All fencing language is fully protected under this bill. The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President’s use of the cancellation authority. Any credit for money canceled will be dedicated to the underlying law, not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

The President’s special cancellation message must be transmitted to the Congress within 5 calendar days—excluding Sundays—after the President signs the underlying bill into law.

Such special cancellation messages must be printed in the first issue of the Federal Register published after the transmital.

Upon receipt of the President’s special message, in both Houses of Congress, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit included in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

Any such cancellation is reversed only if a bill disapproving the President’s action is enacted.

The conference report provides Congress with 30 calendar days of session to consider a disapproval bill under expedited procedures. A “calendar day of session” is defined as only those days during which both Houses of Congress are in session.

I wish to point out that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conference report sets out procedures designed to prevent delaying tactics including but clearly not limited to filibuster, extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees.

When the President’s message is received, any Member may introduce a disapproval bill. The form of the disapproval bill is laid out in the conference agreement. For a disapproval bill to qualify for expedited procedures, it must be introduced no later than the fifth calendar day of session following the receipt of the President’s message. Any bill introduced after the fifth day of session is subject to the regular rules of the two Houses.

A disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message. There are no similar requirements in the Senate, except no disapproval bill may contain any legislative language not germane and directly related to the President’s cancellation message.

After introduction, a disapproval bill will be referred to the appropriate committee or committees. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred may report it without amendment, and either with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

Again, in the Senate, the committee may amend the bill, but it may not offer any amendments beyond the scope of the President’s message.

If any committee fails to report the disapproval bill within the requisite time period, then the bill will be discharged from committee.

Procedure for consideration of the disapproval bill in the House of Representatives is noted in the conference report.

In the Senate, a motion to proceed to the consideration of a disapproval bill is not debatable. Section 1025(e)(6) of the bill, provides a 10-hour overall limitation for the floor consideration of a disapproval bill. Except as specifically provided in the bill, this limit on consideration is intended to cover all floor action with regard to a disapproval bill. This section is specifically meant to preclude the offering of amendments of the making of dilatory motions after the expiration of the 10 hours.

Amendments to a disapproval bill in the Senate, whether offered in committee or from the floor, are strictly limited to those amendments which either strike or add a cancellation that is included in the President’s special message. No other matter may be included in such bills. To enforce this restriction in the Senate, a point of order, which may be waived by a three-fifths vote, would lie against any amendment that strikes anything that strikes or adds a cancellation within the scope of the special message. To the extent that extraneous items are added to disapproval bills, and the Senate has not
Mr. President, many have characterized this legislation as a dangerous and unnecessary reform. This is not accurate and does not take into account the greater picture of the dangers presented by our out-of-control budget process. The real danger is what has happened to the administration of the American Government. Unnecessary and wasteful spending is threatening our national security and consuming resources that could better be spent on tax cuts, deficit reduction, or health care. I do not make the charge that wasteful spending threatens our national security without a great deal of consideration. After last year’s defense appropriations bill, it is unfortunately clear how dangerous this kind of spending can be to our national security. It should now be clear how urgent the need for a line-item veto is.

At a time when thousands of men and women who volunteered to serve their country have to leave military service for reasons of cost and declining defense budgets, we nonetheless are able to find money for billions of dollars of unnecessary spending in the defense appropriation bill. At a time when we need to restructure our forces to meet our post-cold war military needs, we have squandered billions on pointless projects with no military value.

Mr. President, every Congressman or Senator wants to get projects for his or her district. Everyone wants to get not only their fair share of the Federal pie for their States, they want more. Therein lies the problem. It is an institutional problem. I am not a saint. But we are the representative of the people. I am not here to cast aspersions on either Senators who secured an unnecessary project for their States. I am not here to start a partisan fight.

Congress created the problem and its Congresses responsibly must fix it. It is a Congress that has piled up a $5 trillion debt. It is a Congress that is responsible for over a $200 billion deficit this year. It is a Congress that has miserably failed the American people. It is an institution that desperately needs reform.

Anyone who feels that the system does not need reform need only examine the trend in the level of our public debt. As I stated in my analysis of the most recent budget forecasts, the deficit has continued to balloon and spending continues to increase. In 1960, the Federal debt held by the public was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $703.3 billion. In 1990, it was $3.2 trillion, and it is expected to surpass $5 trillion this year.

My colleagues may ask: Why is the line-item veto so important? Because a President with a line-item veto could help stop this waste. Because a President with a line-item veto could play an active role in ensuring that valuable taxpayer dollars are spent effectively to meet our national security needs, our infrastructure needs, and other social needs without pointless pork barrel spending. And the President can no longer say, “I didn’t like having to spend billions on a wasteful project but it was part of a larger bill I just couldn’t say no to.”

Under a line-item veto, no one can hide.

According to a recent General Accounting Office study, $70 billion could have been saved between 1984 and 1989, if the President had a line-item veto.

It is important that we have reform and help reduce the deficit. It can change the way Washington operates. Mr. President, we cannot turn a blind eye to unnecessary spending when we cannot afford the change of our priorities and our lives. We cannot tolerate waste when Americans all over this country are experiencing economic hardship and uncertainty.
The American public deserves better than business as usual. As their elected representatives we are duty bound to end the practice of wasteful and unnecessary spending.

The line-item veto is not a means to encourage Presidential abuse, but a means to end congressional abuse. It will give the President appropriate power to help control spending and reduce the deficit. To anyone who thinks that Congress is fully capable of policing national fiscal affairs, I simply bring to the Senate's attention the $3.7 trillion public debt as irrefutable proof of our inability.

Mr. President, a determined President will be able to balance the budget with the line-item veto. But a determined President could make substantial progress toward that goal.

I submit that had the President been able to exercise line-item veto authority or even just to oppose the measure which the distinguished Senator from Arizona both in logic and in humor. I am afraid neither is the case, but I have found him to be a most distinguished opponent, most learned and most dedicated to the proposition to which he is committed.

Mr. President, I yield floor.

Mr. BYRD. Will the Senator yield?

Mr. President, I thank the distinguished Senator for his customarily gracious and generous remarks concerning me. I wish to respond in kind by saying that, although I adamantly oppose the measure which the distinguished Senator from Arizona and the distinguished Senator from Indiana support, which they thought for so long, I have only the utmost respect for both of them. I think that the Senator from Indiana works hard and is dedicated. I serve with him on the Armed Services Committee. I admire him and consider him to be a dear friend, and I am sure, regardless of the outcome in this instance, I will remain his friend.

The distinguished Senator from Arizona is a great patriot. He has served his country overseas, and he has served his country in this Chamber. He fights hard and very tenaciously for that in which he believes in the legislative field. He is dedicated in this instance. I regard him as one of the more skilled and devoted Members of the Senate. I have only the utmost respect for him.

I like to believe before the day is over, I will have prevailed over his position and the result will be better insofar as I am concerned at the moment. But I do respect him, and regardless of how vehemently I may propose my viewpoint, it has nothing to do with my respect for him and my friendship for him.

He also serves on the Armed Services Committee, is one of the outstanding members of that committee.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I want to first acknowledge the hard work and dedication that Senator Ted Stevens from Alaska has put into this conference report. Obviously, there is no Senator here who is more dedicated to our prerogatives as a Senate and our prerogatives as individual Senators, and there is no Senator more concerned about maintaining that power. And, likewise, there is none who understands the effectiveness of the appropriations process than Senator Ted Stevens from Alaska. I might say, perhaps with the exception of the distinguished Senator from West Virginia.

Senator Stevens worked tirelessly to come up with a compromise. He will speak for himself later in the day, but obviously, if there is a hero, he is one of them on this effort.

I have already indicated the two leaders on our side have spent a long period trying to get their Senate life devoted to this, and they took the lead from the beginning. Senator McCain is one, who has just spoken, and I am sure that we will have a number of Senators speak before we are finished. But Senator Coats was the other. Obviously, he is a coleader of this cause. I acknowledge their dedicated effort.

I do not intend to speak very long at this point. We have completed a conference report after months in conference and in support of the Line-Item Veto Act which is before us.

I cannot emphasize enough the importance of this legislation. I believe it has the potential to fundamentally change the way we make spending decisions in Congress and our relationship to the executive branch. I think the objectives of this legislation are correct. We should enact legislation that facilitates our ability to extract lower priority spending from legislation and to devote that to deficit reduction.

However, I share the concerns of others about this bill’s impact on the balance of power between the legislative and executive branch.

I want to congratulate again the majority leader who brought together a group of Senators with very diverse views and got them to compromise on this final bill. The distinguished chairman of the Governmental Affairs Committee, Senator Stevens, once again deserves a great deal of credit, for he chaired that effort, that conference and that effort that our leader put together in an effort to resolve differences.

Senators McCain and Coats, as I indicated heretofore, have lion’s share of credit for getting this bill where it is. And they have been tenacious advocates, and obviously we will hear from both of them here today.

Mr. President, I agree that line-item veto legislation a priority for the Budget Committee, because clearly we did not want to be making a point of order under the Budget Act on line-item veto because it came within the purview of legislation that must be considered by the Budget Committee. A number of years getting this job done has been stopped either by filibuster or point of order. I thought it was time that we get that point of order out of the way and that we do our job and let us work our will.

We moved quickly to hold hearings and report Senate bill No. 4 at the beginning of 1995. If this bill had not been reported, it would have been subject to the point of order, as indicated, and we would probably never see it here.

Mr. President, the conference report on this bill essentially adopts the House’s enhanced rescission approach. I repeat, this essentially adopts the House’s enhanced rescission approach. Essentially that approach was similar to the approach advocated by Senators McCain and Coats and many who followed their lead.

There are a significant number of modifications to the House’s enhanced rescission concept as amended.

One, we sunset this authority after 8 years to give Congress an opportunity to review the President’s use of this authority. Some wonder why, but, essentially, if you did not have that, there would be no time when you could change this law over a President’s objection without having two-thirds vote here in the Senate, because, indeed, if a President liked it and we did not like it—and there was a real reason for that, to argue that policy issue out—President would veto whatever we sent them.

As a matter of course, we would be saying, regardless of how it is used—and
it is a kind of new activity. Even the occupant of the chair, who used it as a Governor, understands and has spoken to me that this is somewhat different in scope when you do it this way, when it is the national picture, and we are treading on new ground.

So I would have liked a shorter sun-set provision, but the House had none. So there are 8 years. We will live through two complete Presidential terms, starting next January, and see how it is working out with reference to a judgment of that new power given to Presidents.

No. 2, the line-item veto applies to all new spending, including new direct spending, that is frequently called entitlements or mandates. Despite all the rhetoric, the only real deficit reduction this year has been in the area of discretionary spending. I have mis-stated the number heretofore, and let me be accurate. The only money saved in the balanced budget argument to this point has been less in discretionary spending in the appropriated accounts, domestic, in the year 1995. It is obvious to those who know the budget, we cannot balance the budget or significantly restrain Federal spending by just having a veto. We cannot cancel discretionary authority, we can continue the idea and concept that we can balance the budget on the back of the domestic discretionary programs, that spending alone.

We devote any savings from the line-item veto to discretionary reductions through a lockbox concept. We clearly define and place restrictions on the President's cancellation authority.

The President does not have complete discretion to cancel items in laws. He can only cancel entire items in laws or accounts. We strengthen the expedited procedures for congressional consideration of a bill to disapprove of a President's cancellation of an appropriation, either the line item or direct spending or the limited tax benefit, which has been described by my friend from Arizona. I will not go into it any further now other than to say this bill, as it left the Senate, carried with it an expanded concept of what ought to be subject to cancellation.

The two things included here that were not historically considered were targeted taxes, that is, very special and direct taxes that benefit a small group of people or institutions, and new additional mandatory or direct expenditures, not vetoing entitlements, but if you create a new one that spends more money, the President has one opportunity to address that.

Frankly, both are fair because if the statement, that is clear, that appropriated accounts alone do not create the problem of deficit spending, nor are they the only area where special attention is made to special needs of special constituents by legislators, the same is done in tax bills and the same is done in entitlements.

Clearly, the President, if he is going to have a chance to get at and cancel discretionary authority for appropriated accounts, both domestic and defense, he ought to have a similar authority. This last part that I have just described is truly an experiment, but we worked as diligently as we could to make it clear and to make sure that everyone would understand what the conferences had in mind on direct or mandatory expenditures and targeted tax expenditures.

Again, I congratulate Senators DOLE, MCCAIN, and my cohort who chaired this conference, the distinguished Senator from Alaska, Senator TED STEVENS. This is a remarkable achievement on their part. While it will be contested here today, I do not believe it will be contested that this is some form of line-item veto. Everyone that those who think change is good will clearly understand that this is a formidable event in the ever-changing landscape of the legislation that Congress considers and finally passes.

There will be a number of Senators who oppose this. Clearly, I want to say right up front that the distinguished Senator from West Virginia, former chairman of the Appropriations Committee, majority leader, minority leader of the Senate, on this one issue. He will be listened to. The concerns he expresses will not be light concerns. They will be important concerns.

Many of us have agreed with him in the past, and we have concerns about the legislation. However, we have come to the conclusion—many on the Appropriations Committee, or a number, will support this legislation—that the time is now to give line-item veto a chance, to get it over to the President who will sign it. If the House, they will adopt it, and then go to work on making it work come January.

Now, we have not yet agreed upon the time that will be taken here because, quite appropriately, the distinguished Senator from West Virginia wants to watch his time carefully, not only for himself but some of his advocates.

When we started here on the floor, before a word was said, the distinguished Senator from West Virginia, in his usual style and gracious, gracious demeanor and respect for the institution, shook the hand of Senator MCCAIN and Senator DOMENICI and indicated his respect, but indicated in this particular measure he did not agree. That is a great part of our Senate heritage. He disagrees. He will have his day. We disagree with Senator BYRD. We will have our day. I hope in the end we will have a majority of Senators supporting what we propose. I yield the floor.

(Mr. KYL assumed the chair.)

Mr. BYRD. Mr. President, "I am no orator, as Brutus is. But as you know me all: a plain blunt man *** for I have neither wit, nor words, nor worth, action, nor utterance, nor the power of speech to stir men's blood. I just speak right on. I tell you that which you yourselves do know.

Mr. President, the Senate is on the verge of making a colossal mistake. The distinguished Senator from New Mexico was correct when he spoke of this measure as being a formidable measure, a far-reaching measure, a measure that will produce a sea change in the relationship between the executive and the legislative branch.

Let me say at the outset that I have only the utmost respect for the distinguished, the very distinguished Senator from New Mexico. He is one of the brightest Senators that I have seen during my 38 years in this body. He understands the budget process, in all likelihood, better than anyone else in this Chamber on either side of the aisle. He is skillful, he is dedicated, he is tenacious, and, of course, he is fighting for what he believes today. I cannot help but think, however, that in his heart of hearts, he would rather be supporting a more moderate measure than this. It is before we have no right to attempt to look into his mind or into his heart.

The Senate, you mark my words, is on the verge of making a colossal mistake, a mistake which we will come to regret but with which we will have to live until January 1 of the year 2005, at the very least. We are about to adopt a conference report which will upset the constitutional system of checks and balances and separation of powers, a system that was handed down to us by the Constitutional Framers 208 years ago, a system which has served the country well during these two centuries, a system that our children and grandchildren are entitled to have passed on to them as it was handed down to us.

And as I comprehend the appalling consequences—they may not become evident immediately, but in due time they will be seen for what they are—as I comprehend the appalling consequences of the decision that will, unfortunately, likely have been rendered ere we hear "the trailing garments of the Night sweep through these marble halls," I think of what Thomas Babington Macaulay, noted author and statesman, wrote in a letter to Henry S. Randall, an American friend, on May 23, 1857:

"Either some Caesar or Napoleon will seize the reins of government with a strong hand; or your republic will be as fearfully plundered and laid waste by barbarians in the Twentieth century as the Roman Empire was plundered and laid waste by Attila the Hun. In the latter case, if your Huns and Vandals will have been engendered within your own country by your own institutions.

The Senate is about to adopt a conference report. Mr. President, in which Madison and the other Constitutional Framers and early leaders would have absolutely abhorred, and in adopting the report we will be bartering away
our children’s birthright for a mess of political pottage.

The control of the purse is the foundation of our constitutional system of checks and balances of powers among the three departments of government. The historical seniority of the legislative branch is seen in the fact that control over the purse in the hands of the legislative branch. There were reasons therefor.

The control over the purse is the ultimate power to be exercised by the legislative branch, for it is with the purse that control over the purse in the central pillar—upon which the constitutional temple of checks and balances and separation of powers rests, and that if the pillar is shaken, the temple will fall. It is as central to the fundamental liberty of the American people as is the principle of habeas corpus. The raisin d’etre are not generally well understood, therefore, before focusing on the power over the purse as the central strand in the whole cloth of Anglo-American liberty, we should engage in a kaleidoscopic viewing of the larger mosaic as it was spun on its loom of time.

Congress’ control over the public purse has had a long and troubled history. Its beginnings are imbedded in the English experience, stretching backward into the middle ages and beyond. It did not have its genesis at the Constitutional Convention, as some may think, but, rather, like so many other elements contained in the American Constitution, it was largely the product of colonial and state governments and with roots extending backward through hundreds of years of British history predating the earliest settlements in the New World.

Notwithstanding William Ewart Gladstone’s observation that the American Constitution “is the most wonderful work ever struck off at a given time by the brain and purpose of man,”—alas! without the slight question with regard to that quotation—the Constitution was, in fact, not wholly an original creation of the Framers who met in Philadelphia in 1787. It “does not stand in historical isolation, free of antecedents,” as one historian has noted, but “rests upon very old principles—principles laboriously worked out by long ages of constitutional struggle.” The fact is, Gladstone himself, contrary to his quote taken out of context, recognized the Constitution’s evolutionary development.

British subjects outnumbered all other immigrants to the colonies under British dominion. The forces of political correctness are trying to change American history these days, but it cannot be denied that the first sentence of Muzzey’s history, which I studied in 1928, 1929, and 1930—the very first sentence—says: “America is the child of Europe.” America is the child of Europe, political correctness notwithstanding.

They brought with them—those early settlers from England—the English language, the common law of England, and the traditions of British customs, rights, and liberties. The British system of constitutional government, safeguarded by a House of Commons elected by the people, was well established when the first colonial charters were granted to Virginia and New England. It was a system that had developed a consistent struggle during which many of the liberties and rights of Englishmen were concessions won—sometimes at the point of the sword—from kings originally seized of all authority and who ruled as divine right.

The Constitutional Framers were well aware of the ancient landmarks of the unwritten English constitution. Moreover, they were all intimately acquainted with the English Constitution, the state constitutions which had been lately established following the Declaration of Independence and which had been copied to a degree from the English model, with adaptations appropriate to republican principles and local conditions. Let us trace a few of the Anglo-Saxon and later English footsteps that left their indelible imprint on our own constitutional system.

Since time immemorial, Anglo-Saxon and later English kings had levied taxes on their subjects with the advice and consent of the witenagemot or the Great Council. When Parliament later grew out of the Great Council, and when knights and burgesses from the shires and boroughs, and representatives from the town and rural middle class were chosen to participate in Parliament, the king sought approval, first in his representatives, and then Parliament would refuse to grant funding requests and new taxes. In 1297, almost 700 years ago now, Edward I reluctantly agreed to the “Confirmation of the Charters,” and, in doing so, he agreed, under clause 6 of the Parliamentary document, that is the future, he would not levy “aids, taxes, nor prises, but by the common consent of the realm.” Thus it was that the event was twofold. In the first place, it was henceforth necessary that representatives of the whole people, and especially the middle class, be summoned to all Parliaments where any non-feudal taxation proposals were to be considered. Moreover, and of even greater importance, the control of the purse was lodged in Parliament, and this was a power that Parliament would frequently use to check the abuse of royal authority and to persuade the king to grant concessions.

This is the meat of the coconut. On two occasions in Edward II’s reign (1307–1327), Parliament had asked for a reassessment of grievances before it granted taxes on personal property. In both cases, the substance of Parliament’s petitions were approved and enacted into statutes by the king. On one of these occasions, in 1309, the Commons granted the subsidy on the condition, “that the king should take all grants and grant redress upon certain articles wherein they are aggrieved.” Members of Congress should take note.
There are early instances of the allocation of funds for specific purposes, such as the Danegeld, which was a land tax levied to meet requirements arising from Danish invasions and to buy off the invaders. It usually was two shillings a hide of land, and it continued for some time after the danger of Danish invaders had passed, and, as a land tax, it was revived by William the Conqueror for specific emergency purposes such as defense preparations in 1067, when the King of Denmark threatened to enforce his claim to the English throne. Although continued as a land tax under William's successors, its original character was lost, and its name, the Danelag, fell into disuse in 1163, during the reign of Henry II. It became a source of revenue for general purposes.

Feudal charges were levied by kings before the creation of Parliament and appropriated for specific purposes. For example, scutage, a tax levied upon a tenant of a knight's fee in commutation for military service, was assigned to the financing of military measures. Funds collected to buy Richard I's freedom were paid into a special "exchequer of the lands." It was applied to financing the costs of a crusade, as were specific grants for Holy Land conquests in 1201, 1222, and 1270. In 1315, the Barons successfully insisted that Edward II's personal expenditures be limited to 2000 marks a day. By Edward III's day (1327-1377), it was becoming customary to attach conditions to money grants. Parliament often insisted that the money granted should be spent for certain specified purposes, and for no others.

In 1340, a grant was made by Commons to the king on the condition that it "shall be put and spent upon the maintenance and safeguard of our said Realm of England, and on wars in Scotland, France, and Gascoign, and in no other, as, for example, in 1345, it was provided that the funds "for building ships shall be made payable into the Exchequer, and shall be kept separate, distinct, and apart from all other monies, and shall be appropriated for the building and furnishing of ships, and that the warrant for the sale supply shall be transmitted to the Commons of England in Parliament."

The principle of appropriating the supplies (sums of money) for specific purposes only, instead of placing the funds without reserve into the king's hands, dates back at least as far as 1340. Here, then, as early as the mid-1300's—650 years ago—was the beginning of the current system of congressional appropriations as we know it. Members of Congress should be aware of the intimate part that the appropriations process plays in the modern appropriations process. It was not something that was conceived just yesterday and did not just come out of the woodwork.

After the Commons and Lords separated into two houses in the early 1300's, around 1339, 1340, and 1341, the House of Commons reserved to itself the power to initiate tax and money bills.

In 1395, the grant to the king, Richard II, was made "by the commons with the advice and consent of the lords." It started out in the commons. In 1407, the king—Henry IV, the former duke of Lancaster—agreed that he would listen to reports about money grants only "by the mouth of the speaker of the Commons." The right of the commons to originate taxes and money grants was a right by custom, not a statutory right, but it was a custom that was not easily shaken. For example, Henry IV had failed in 1407 when he tried to proceed first through the House of Lords. The Commons refused to accept such a "great prejudice" of their natural right. The U.S. Constitution, in Article I, reflects the very same principle: "All Bills for raising revenue shall originate in the House of Representatives."

As the years passed, Parliament extended its power in the control of government expenditures and the earmarking of appropriations of money for particular purposes. Almost always it was specified that general taxes to the forbidding fund was used for certain purposes such as defense preparations for the maintenance of Calais, as I have earlier stated, and the tunnage and poundage tax was to be used for such specific purposes as the navy and "the building of the seas in the other way." The royal income was to be used for the expenses of the royal household. During the Commonwealth, the House exercised full control over government expenditures, and after the Restoration in 1660, the House claimed, and Charles II grudgingly conceded, the right of appropriation in the Appropriation Act of 1665. From that time, it became an indisputable principle that the money appropriated by Parliament were to be spent only for the purposes specified by Parliament. Since the reign of William and Mary (1689-1701), a clause was inserted in the annual Appropriation Act forbidding voting out of the last subsidies—lords of the Treasury to issue, and officers of the Exchequer to obey, any warrant for the expenditure of money in the national treasury, upon any service other than that to which it was directly appropriated. The right of Parliament to audit accounts followed, as a natural consequence, the practice of making annual appropriations for specified objects. Even as early as 1340, a committee of Parliament was appointed to examine into the manner in which the last subsidy had been expended. Henry IV resisted a similar audit in 1406, but in 1407 he conceded Parliament's right to inquire into the ways the appropriations were spent. Such audits became a settled usage.

These two principles—that of appropriations and that of auditing—were united by the framers in a single paragraph of the U.S. Constitution: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of every Description of public Money shall be published from time to time."

So, Mr. President, as we can see, legislative control over taxation bears...
close relation to the history of Parliament. The witenagemot possessed the right of advice and consent regarding taxation, although the right was probably exercised only rarely because the royal needs in the Anglo-Saxon era were normally supplied by income from royal farms, fines, and payments in kind or the quasi-voluntary tribute paid by the kingdom to its sovereign. The Norman kings exacted feudal aids and other special varieties of taxation, retaining and adding to the impost of Saxon kings. But there is scant evidence as to what extent the council was asked by the kings. Although a tax in the reign of Henry I (1100-1135) was described as the “aid which my barons gave me,” it appears that until the time of Richard I (1189-1199), the king usually merely announced in assembly the amounts needed and the reasons for his imposing subsidies. By the feudal doctrine, the payer of a tax made a voluntary gift for relief of the wants of his ruler.

Magna Carta (1215) provided that, except for three feudal aids, no tax should be levied without the assent of a council duly invoked. But as the burden of taxation increased, the necessity for obtaining the consent of barons grew, and later, of all who were taxed. After the “Confirmation of the Charters” in 1297, the right of the people of the realm to tax themselves through their own chosen representatives became an established principle. The Petition of Rights, reluctantly agreed to by Charles I in 1628, emphatically reaffirmed the principle. Charles had attempted a forced loan in 1627 to meet his urgent money needs. This was, in effect, taxation without parliamentary sanction, and many refused to pay, thereby compelling the government to levy fines for nonpayment. Other efforts to raise money led to increases in the military, civil service, and other special varieties of taxation, additional Knightshoods were created, requiring the beneficiaries to pay a fee to the King. Those who refused were fined. Other efforts to raise money led to increased resentment from citizens and the country into a state of crisis. Charles lost both his throne and his head.

The Bill of Rights, to which William III and Mary were required to give their assent before Parliament would make them joint sovereigns, declared “that levying money for or to the use of the crown, by pretense of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal.” It was the vision of this constitution concerning the protection of the taxpayers, through their chosen representatives, that led to the revolt of the colonies in America. The Declaration of Independence explicitly names, as one of the reasons justifying separation from England, that of her “imposing taxes on us without our consent.”

There is, then, a certain historic fitness in the fact that first among the powers of Congress enumerated in Article I, section & of the Constitution is the power “to lay and collect taxes.” The power to appropriate monies is also vested by Article I solely in the legislative branch—nowhere else; not downtown, not at the other end of Pennsylvania Avenue, but here in the legislative chamber.

Mr. President, we have all perhaps been subject to the notion that the Federal Constitution with its built-in systems of checks and balances, was an isolated and innovative new instrument of government which sprang into existence—sprang into existence—during three months of meetings behind closed doors in Philadelphia, and that it solely was the product of the genius of the Framers who gathered there beginning in May to make it come about. However, as I have also said heretofore, American constitutional history can only be fully understood and appreciated by looking into the institutions, events, and experiences of the past out of which the organic document of our nation evolved and took unto itself a life and soul of its own.

To ascertain the origin of the Constitution, then, it must be sought among the records treating of the fierce conflicts between kings and people—it cannot be found just in Madison’s notes, but it must be sought among the records of treating fierce conflicts between kings and people—the evolution of charterd rights and liberties, and the development of Parliament in the island home of those hardy forebears who crossed the Atlantic to plant new homes in the wilder-
of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Let me repeat just the last portion of the words by Madison.

This power over the purse, may in fact be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Mr. President, the elected representatives of the people in this body should remember those weighty words by Madison, the father of the Constitution. If they wish to know the value of constitutional liberty, they might refer to those words and read.

Mr. President, to alter the constitutional system of checks and balances, by giving the executive—any executive, any President, Democrat or Republican—a share in the taxing or appropriations power through the instrument of an item veto or enhanced recision would, in my view, be rank heresy. As we have seen, the entrusting of the power over the purse to the legislative branch was no accident of history, but rather the result of over 600 years of contest with royalty. To chisel away this rock, that through bloody centuries has undergirded the hard won, cherished rights of freemen in England and in America, should be anathematized by any informed and thoughtful citizen in these United States.

To quote Aristotle: “Of all these things the judge is Time.” From our vantage point, then, Mr. President, as we take the long look backwards into the murky past, history clearly teaches us that the power over the purse—the power to tax and to appropriate funds—wisely came to be lodged, more than 300 years ago, in the directly elected representatives of the people. That this principle lies at the foundation, and is a chief source, of our liberties; and that it is not a power that should be shared by a king or a President.

That our own Constitutional Framers clearly intended for the power over the purse to be solely in the hands of the elected representatives of the American people, we have only to review the words of Madison and Hamilton as they appeared in the Federalist Papers.

Hamilton in the Federalist #78 stated: “The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated.”

Madison in the Federalist #48 stated, “The legislative department alone has access to the pockets of the people.” In Federalist Paper #56—indeed, as I have already pointed out—Madison stated: “This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance and for carrying into effect every just and salutary measure.”

Thus, the founders of this republic left no doubt as to what branch of the government had control over the purse strings. The Executive was not given such power. In fact, with the single exception of the right of the President to veto, in its entirety, a bill—any bill—and in case this bill making appropriations.

There was little discussion of the Presidential veto at the Convention, as a reading of the convention notes will show. There was absolutely no discussion whatsoever with reference to a line item veto or any such modification thereof as we are now contemplating. Henry Clay, one of the greatest Senators of all time, in a Senate Floor speech on January 24, 1842, referred to the veto as “this miserable despotism which the President of the United States.” That is what he thought of a Presidential veto. It is not hard to imagine what Henry Clay would think of this conference report that is before the Senate today. It is ludicrous—nay, it is tragic—that we are about to substitute our own judgment for that of the Framers with respect to what constitutes the need to check the Executive. Yet, that is precisely what we are about to do here today. We are about to succumb, for political reasons only, to the mania which has taken hold of some in this and the other body to put that most political of political inventions, the so-called “Contract with America” into law. Say this, I do not question but that some Senators genuinely, sincerely, and conscientiously believe that this is the right thing to do, and that this is the way to get a handle on the budget deficits.

To quote Homer in “The Iliad”: “Not if I had ten tongues and ten mouths, a voice that could answer the lung of brass in my bosom”, would I be able to persuade those who are motivated by political expediency that future generations will condemn their shortsightedness and hold them responsible for the damage to our constitutional system that will be wrought by this radical shift of power from the legislative to the executive branch. “Who saves his country, saves all things, saves himself, and all things saved do bless him; Who dies a good death, leaves behind him a good, dies himself ignobly, and all things dying curse him.”

Most Presidents in recent times have espoused the line-item veto. I fought against surrendering this power to any President—any President. Most Presidents in recent times have espoused the line-item veto. I fought against surrendering this power to any President. Most Presidents in recent times have espoused the line-item veto. I fought against surrendering this power to President Reagan, I fought against surrendering this power to President Bush, and I just as fervently oppose giving President Clinton—or any other President—a line-item veto or any modification thereof. I have taken an oath to support and defend the Constitution of the United States. My contract with America is the Constitution of the United States. I paid 15 cents for this copy several years ago. It cost $1. I think, now. There it is, well-worn, taped together, and pretty well marked up. But that is my contract with America.

So I have taken an oath many times to support and defend this contract with America, the Constitution of the United States. I do not intend to renge on my sworn oath by supporting this conference report. It is a malformed monstrosity, born out of wedlock. Although the House voted on this version of the so-called line-item veto, the Senate did not. That is why I would say it was born out of wedlock.

It is a profanation of the temple of the Constitution which the Framers built, and it will prove to be an ignis fatuus in achieving a balanced budget. Its passage will effectuate a tremendous shift of power from the legislative branch to the Executive Branch, and it will be used as a club to be held over the head of every member of the United States Senate and House of Represent- atives by power hungry Presidents who will seek to impose their will over the legislative process to the detriment of the American people, whose elected representatives in Congress will no longer be free to exercise their judgment as to what interests are in the best interests of the states and the people whom they serve.

This so-called line-item veto act should be more appropriately labeled “The President Always Wins Bill.” For this act will give the President the power of the purse. If the President will be used as a club to be held over the head of every member of the United States Senate and House of Represent- atives by power hungry Presidents who will seek to impose their will over the legislative process to the detriment of the American people, whose elected representatives in Congress will no longer be free to exercise their judgment as to what interests are in the best interests of the states and the people whom they serve.

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election so that if President Clinton is able to use this ill-begotten measure at all, he would have to be reelected before he can do it. So they say it will only be for 8 years.

I do not believe that the constitutional powers of Congress can be so cavalierly shifted to the executive branch, whether it be for 8 years or for 1 year or for 6 months.

It is instructive to reflect on what George Washington had to say about checks and balances and separation of powers in his Farewell Address, and I shall quote therefrom: “It is important that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. * * * The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each guardian of the public welfare a ward of each in a certain sense, the distribution of the powers of government, into different hands, and the division of legislation and execution into separate departments, may perhaps be considered as natural to man, since it corresponds with his natural instinct of self-preservation..."

Section 9, article I of the Constitution says, “No money shall be drawn from the Treasury, but in consequence of appropriations made by law.” And in the very first section of article I, it says, “All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.”

So here is where the power is vested to pass a law, to enact a law, to amend a law. But this conference report will change that. It will place into the hands of the Chief Executive a power which in essence will be a power to amend not only a bill but a law. A bill which has already been signed into law by the President can then within the next 5 days be amended almost single handedly by him, by way of the rescissions process which is a loaded dice procedure. He cannot lose.

Now, let us take a look at this conference report and examine it. The conference report, to see how this is done. It is all plainly there in black and white. And it is a “heads-I-win, tails-you-lose” proposition for the President of the United States. It is an eye opener. Read it, Senators.

Section 1023(a) of this conference agreement would allow the President to cancel in whole—(1) any dollar amount of discretionary budget authority; (2) any item of new direct spending—see, it does not get into entitlements that are already in the law, and they are what is causing the budget deficits, but they escape the reaches of this conference report—any item of new direct spending; or (3) any limited tax benefit; as long as the President notifies the Congress “within 5 calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of the discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.”

Now let us look at section 1023(a), which states, in part:

The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation.

Once the message comes in the door, the cancellation takes effect. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall
effective as of the original date provided in the law to which the cancellation applied.

Section 1025(b) goes on to detail the time period in which Congress must pass its rescission disapproval bill. The conference agreement allows for:

- A conference agreement during thirty calendar days of session, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval.

In the unlikely event that the conference report creates for the White House to use, would have a devastating impact on the President’s veto of a disapproval bill. Congress would have the opportunity to attempt an override. This time, however, the Congress would be limited to five days of consideration. In any event, it would take a vote of two-thirds of both Houses to override the President’s veto of a disapproval bill.

In the case of a conference report, Congress may actually have to pass an appropriation by a two-thirds supermajority in both Houses, before that appropriation could finally be nailed into law. This makes sense: Congress is a deliberative body. Is it that what Senators or Representatives want? And it is that what the people want, either? Is it that the President wants? And is it that the people, who are elected representatives of the people, what they want? Are we truly intent on installing a new help. The approach outlined in this conference agreement does not go to the President for his signature or veto. This conference report does not give the President the power to veto or let it become law without his signature. He can simply sign it, veto it, or dismiss it.

Consider this scenario: Once the House and Senate have passed an appropriations bill, the President can then, to veto it, the President’s veto of a disapproval bill. The President’s veto power is no longer limited to the various line-items in an appropriations bill. In other words, this conference agreement would enable a President’s veto of any new budget authority contained in any appropriation bill, or any table, report, or statement of managers accompanying any appropriation bills, by simply notifying Congress of such rescissions by a special message not later than five calendar days after enactment of an appropriations act.

So, he can go into this conference report—this does not go to the President for him to veto, the bill goes to the President for his signature or veto. This conference report does not go. He never sees it. Nor does the statement of the managers go, but he can reach into them through his bureaucrats who advise him, “Mr. President, there is a chart in this conference report on page 27, and you will find in that chart a special message not later than five calendar days after enactment of an appropriations bill.

Congress’ goal should be to give Presidents a stronger tool than they now have to reduce unnecessary spending. But, I do not believe, Mr. President, that we have to gut the power of the purse in order to give the President that new help. The approach outlined in this conference agreement would require a President’s judgment about the needs of the various individuals for the judgment of the duly elected representatives of those states and districts. I am sure that the people who vote to send Congress would have the opportunity to override the President’s veto. The American people have the opportunity to muster votes of two-thirds of both Houses of Congress to override the President’s judgment on a matter we thought important for the good of our states. But, this conference report is rigged, and it deals the cards that way and leaves the President and a minority in each body with the ultimate ace in the hole.

Mr. President, what we are talking about here is a measure that would increase exponentially the already overwhelming advantage that is held by the Executive in his use of the veto power. Out of the 1,460 regular vetoes that have been cast by Presidents directly over these past 208 years, only 105—or 7 percent—have been overridden in the entire course of American history. In 208 years, from the Presidency of George Washington, who vetoed two bills, and it was he who said the President has to veto the whole bill or sign it. It has come to use without his signature. He can sign it, veto it, or dismiss it. That was George Washington. In 208 years from the Presidency of George Washington right down through President Clinton today, Congress has only been able to override through override of President’s veto 105 times, 7 percent of the total. In this case, this so-called enhanced rescission authority requirement for a disapproval resolution coupled with the President’s veto power, creates a “heads I win, tails you lose” situation.

This overwhelming advantage on the side of a President is magnified by the fact that often the funds rescinded are likely to be of importance to only a few states or a single region. They may be the most important, or no more than the single congressional district. If that is the case, then how many Members of either House are going to be interested in overriding the President’s veto? How many Senators are going to think it is worth standing up to the President and voting against reducing the deficit for the sake of one lonely House Member or a handful of Senators or a few Members of the House?

Take, for instance, the following six States: Maine, Idaho, Utah, with 2 votes in the House; New Hampshire, with 2 votes; Massachusetts, 10 votes; Vermont, 1 vote; Rhode Island, 2 votes; and Connecticut, with its 6 votes. Collectively, those states have 23 votes in the House of Representatives and 12 votes in the Senate. Those 35 individuals are going to find it extremely difficult, if not impossible, to interest two-thirds of the total House and Senate membership in overriding a presidential veto on an issue of concern only to the New England region. The type of “divide and conquer” strategy, which this conference report creates for the White House to use, would have a devastating
effect on the power of the purse, and the system of checks and balances, which is the very topnotch of the American constitutional system of government.

Not only will this conference report, when enacted into law, make it impossible for the executive branch to control the purse strings to a President of minority government over the purse. For example, cutting off the flow of funds for an activity is the surest way of checking unwise presidential use of power. We have seen that in the effective use of curtailing funding in the wake of our ill-advised adventure in Somalia.

I was the author of the amendment that drew the line which, in essence, said, "All right, Mr. President, after that date, if you want to stay, you come back, make your case before Congress, and seek the money for it."

Were the President to be granted enhanced rescission authority, though, we would have seriously unbalanced the delicate system that was put in place by the Framers. We would then have ceded congressional control over the purse to an executive who could then use it to affect our ability to check misadventures in foreign or domestic policy by threatening important initiatives in one or more states or a region.

The Framers of the Constitution were induced to give to the President the veto power, and they did this for two reasons: the first, was a desire to prevent the executive against possible irresponsible acts of the legislative branch, and the other was a desire to guard the country against the injurious effects of hasty and bad judgment.

Mr. President, it was a gross misapprehension on the part of the Framers who feared that the executive branch would be too feeble to successfully contend with the legislature in a struggle for power. Little did the Constitutional Framers dream that the powers of the chief executive would be so greatly increased over the passage of time. They could not foresee the powers that would flow to the President through his patronage as titular head of a political party. Nor, of course, could they foresee the power of the "bully pulpit" that would come with the invention of radio and television and modern telecommunications, which enable the President, at the snap of a finger, to summon before him for immediate disposal the advantages of a region.

The majority leadership in both Houses has succeeded in enacting major planks in its so-called Contract With America while it turns its back on the Constitution—the real Contract with America, which we have all sworn to support and defend—and the majority party in Congress will forever carry the mantle of the President's hands, as a major plank in the so-called Contract With America.

The majority leadership in both Houses will have succeeded in enacting major planks in its so-called Contract With America while it turns its back on the Constitution—the real Contract with America, which we have all sworn to support and defend—and the majority party in Congress will forever carry the mantle of the President's hands as a major plank in the so-called Contract With America.

The legislative branch sleeps but ever awake on land and sea; its action is continuous and unceasing, like the tides of some mighty river, which continues to flow on and on and on, swelling, and deepening, and widening, in its onward progress, until it sweeps away every frail obstacle which might be set up to stay or slow its course.

The legislative branch sleeps but there stands the President at the head of the executive branch, and ready to enforce the law, and to seize upon every advantage which presents itself for the extension and expansion of the executive power. And now, we are preparing here in the Senate to augment the already enormous power of an all-powerful chief executive by adopting a conference report that will shift the real power of the legislative branch to the other end of the avenue and place that power in his hands—to be used against the legislative branch, to be used to further the ends of representatives of the people in legislative matters. It is as if the legislative branch has been seized with a collective madness. The majority leadership in both Houses will have succeeded in enacting major planks in the so-called Contract With America.

Mr. President, let me say once more, this is my contract with America: The Constitution of the United States. It cost 15 cents seventy years ago. It can be gotten from the Government Printing Office, not for 15 cents today, but perhaps for a dollar. That is my contract with America.

The majority leadership in both Houses has succeeded in enacting major planks in its so-called Contract With America while it turns its back on the Constitution—the real Contract with America, which we have all sworn to support and defend—and the majority party in Congress will forever carry the mantle of the President's hands as a major plank in the so-called Contract With America.

Let us contemplate the effect that the passage of this conference report would have on the power of the chief executive. At the present time, if all Senators are voting, 51 Senators are required to constitute a majority in the passage of a bill, while in the other body 218 Members are required to constitute a majority in the passage of a bill. What if the 16 additional Senators and 288 Members of the House—then two-thirds of the Senate, or 67 votes, if all Senators are present and voting, will be required to make that bill become a law over a presidential veto. In other words, that veto by one man in the Oval Office will be worth the vote of 16 additional Senators, while in the House that presidential veto by one man will be equal to 72 votes—a supermajority of 218 being required to pass the bill, and a supermajority of 288 being required to override a presidential veto, or a difference of 72 votes. In other words, a veto cast by a single individual who holds the presidency, will be worth the
votes of 88 members of the House and Senate. Is this not enough, Mr. President, that he would wield so vast and formidable an amount of patronage, and thereby be able to exert an influence so potent and so extensive? Must there be no checks on such a power? must the legislative branch be made absolute and now because that is what it will amount to. The Constitutional Framers did not intend for such raw power over the control of the purse strings to be vested in the hands of any chief executive. Do Senators know what they are doing when they vote to adopt this conference report? They are voting willingly to diminish their own independence as legislators. No longer will they feel absolutely independent to speak their minds concerning any President, any administration or administration policies in their speeches on this Floor, and no longer will they exercise a complete and uninhibited independence from the chief executive when they vote on matters other than appropriation bills because they will know that the President, with this new and potent weapon in his arsenal, can punish them and their constituencies for exercising their own free independence in casting a vote against administration policies, against presidential nominees, against approval of the ratification of treaties.

Now, Mr. President, I find in the New York Times of today that not only am I concerned about this loss of independence that we will suffer if we adopt this conference report. In today's New York Times, I find an article by Robert Pear titled "J Judges: Condemns Vote of Item Veto Bill." I will just read one paragraph as an excerpt therefrom. Here is what Judge Gilbert S. Merritt, chairman of the Executive Committee of the Judicial Conference, has to say: "J judges were given life tenure to be a barrier against the wind of public opinion, said Judge Merritt. "If we did not have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted." So the judges are concerned about judicial independence. I am concerned about the independence of lawmakers once this conference report becomes law.

Plutarch tells us that Eumenes came into a house, disarmed a man, and drove himself in the following fable. It was a fable about a lion. "A lion once, falling in love with a young damsel, demanded her in marriage of her father. The father made answer, that he looked on his daughter as such a jewel to his family, but he stood in fear of the lion's claws and teeth, lest, upon any trifling dispute that might happen between them after marriage, he might exercise them a little too hastily upon his daughter. To remove this objection, the amorous lion caused both his nails and his teeth to be drawn immediately: whereupon, the father took a cudgel, and soon got rid of his enemy. This," continued Eumenes, "is the very thing aimed at by Antigonus, who is liberal enough to propose himself to give the President the master of your forces, and then beware of his teeth and claws."

Mr. President, President Clinton wants this conference report. President Bush would have liked to have had it. President Taft, with the exception of President Taft, have wanted the veto power. So perhaps this President is about to be given the power which he will not be able to exercise, however, under its current form, until he is re-elected for the second term.

Mark my words, Mr. President, once he gets it—or any other President—then beware of his teeth and claws. Senator Byrd, you will not be as independent in your exercise against freedom of speech, against the policies of an administration, once that President has in his power this weapon. Beware of his teeth and claws. Senator Byrd, you might not have voted against Clarence Thomas if the President had this effective weapon in his arsenal. I do not know about that.

In other words, Mr. President, this power of rescinding discretionary spending will not be used by a President to reduce the deficit. It is not a deficit-reducing tool because it does not get at entitlements, past entitlements. They are one of the real causes of the deficit. This conference report does not get to them. It is a deficit-educing tool. This spending has already been cut to the bone. Entitlement spending, which is a real cause of growth in the deficits cannot be touched under this conference report. No. This new power of rescissions will be used by a President to threaten and coerce and intimidate members of the legislative branch to give the President what he wants or he will cut the projects and programs that our constituents need and want. It will be a sword of Damocles suspended over every Member of Congress.

This conference report, when it is examined in its minutest detail, will constitute an inhibition on freedom of speech. It is going to constitute an inhibition on the independence of judges. That is what this judge feared. I say it will constitute an inhibition on freedom of speech in both Houses, an inhibition on a Member's casting of votes in both the House of Representatives and the Senate, an inhibition on every Member's free and untrammeled independence in carrying out his duties and responsibilities toward the constituents who send him or her here. What Senator is willing to surrender his independence of thought and action and speech, to an already all-powerful executive, made more powerful by a major share in the control of the purse strings given to him by this conference report, a power that no Chief Executive has heretofore, in the course of over 200 years, shared.

The political leadership of the majority party in this Congress may reap temporary political gain from the enactment of this unwise measure, but the damage that will have been done to our constitutional system of checks and balances will constitute a stain upon the escutcheon of the Congress for a long time to come. As the Roman Senator Lucius Postumius Megellus said to the assembly at Tarentum, it will take not a little blood to wash this gown. It will take not a little blood to wash this gown.

The majority party may reap an immediate and temporary political gain from this action, but in "reaching to take of the fruit" of this amendment, its proponents—like those in Milton's "Paradise Lost"—will "chew dust and bitter ashes."

In a March 10, 1993, hearing before the House Government Operations Committee, Mr. Milton Socolar, Special Assistant to the Comptroller General of the United States, stated "proposals to change the rescission process should be viewed primarily in terms of their effect on the balance of power between the Congress and the President with respect to discretionary program priorities." He went on to say that enhanced rescission authority "would constitute a major shift of power from the Congress to the President in an area that was reserved to the Congress by the Constitution and historically has been one of clear legislative prerogative."

Mr. President, once this shift of power takes place, it will not be recovered by the legislative branch. Any bill to take it away from the President will be vetoed summarily and the prospects of overriding such a veto would be practically out of the question. The moving finger writes; and, having writ, moves on; nor all your piety nor wit shall lure it back to cancel half a line, nor all your tears wash out a word of it.

Senators should think long and hard before they agree to trade an indefinite term of harm that will be done to the structure of our government for the short-term gain that might or might not come from passage of this bill.
should all stop and think about our Constitution, its system of checks and balances, and the wisdom of the Framers who placed the power of the purse here in this institution. We should all take the time to reread the Constitution, particularly those who have not read it recently. We should reread it, and think about what that great document says before we agree to hand the type of enhanced rescission authority contained in this conference report over to the executive branch.

Mr. President, press reports tell us that a recent letter from the Comptroller General to the President has given the Republicans their biggest legislative achievement of the 104th Congress. What a sad commentary to think that a bill of this quality, surrendering legislative power— the people's power through their elected representatives and legislative responsibility to the President, and a bill so poorly drafted that we can only guess how it will be implemented, is considered an achievement. I cannot believe that the 104th Congress is so bereft of accomplishment that this bill represents its crowning glory.

Supporters of the item veto bill claim that it gives the President an essential tool in deleting “wasteful” federal projects and activities. Let us not deceive ourselves or the voters. There is not the slightest basis in our political belief that the Presidents are peculiarly endowed by nature to oppose federal spending. Presidents like to spend money. They like proposing expensive new projects and programs, and they like to wield power, especially over the Members of the legislative branch. The national highway system, landing on the Moon, and Star Wars are some of the presidential initiatives.

The joint explanatory statement of the conference committee states that a January 1992 GAO report indicates that a line item veto would have a significant impact upon federal spending, concluding that if Presidents had applied this authority to all matters objected to in Statements of Administration Policy on spending bills in the fiscal years 1984 through 1989, spending could have been reduced by a six-year total of about $70 billion.

The fact is that the Comptroller General later apologized for this report, acknowledging that it had serious deficiencies and that the theoretical figure of $70 billion could not be defended. Actual savings, he said, could have been “close to zero.” The Comptroller General even admitted that giving line item veto authority with the President could lead to higher spending, because the administration could use that authority to strike quid pro quos with legislators.

Mr. President, I ask unanimous consent to have this letter to which I have just referred, printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR MR. CHAIRMAN: This is in response to your recent letter concerning our report on the line item veto.

In reviewing the report and the way it has been interpreted, it is now apparent that we were not sufficiently clear about the purpose of the report or what we judged to be its implications.

Mr. President, I ask unanimous consent to have this letter to which I have just referred, printed in the RECORD.

Sincerely yours,
CHARLES A. BOWSHER, Comptroller General of the United States.

Mr. BYRD. Let us speak plainly. This bill changes the existing process the President uses to rescind, or terminate, appropriated funds. That process takes place after the President signs a bill into law. It does not operate when he is signing a bill, as is the case with the real item veto used by governors. It is a misnomer to call this bill an item veto.

Why do we not talk straight to the American people? Do we think they are unable to understand what we do in Washington, DC? How can we justify using false language on false concepts? This bill has nothing to do with an item veto. It is a change in the rescission process.

This executive attitude of “We know best” persists from decade to decade. The President’s Economic Report for 1995 includes a discussion about the pros and cons of the item veto. It admits that there is little basis to conclude from the State experience that an item veto would have a substantial effect on Federal expenditures. In fact, it says that “per capita spending is somewhat higher in States where the Governor has the authority for a line-item veto, even corrected for the major conditions that affect the distribution of spending among States.”

There are other constitutional problems with this bill. First, this bill will have a serious impact on the independence of the Federal judiciary. With enhanced rescission authority the President can delete judicial items, perhaps for punitive reasons. He has no such authority now.

Second, this bill contains a number of legislative vetoes declared unconstitutional by the Supreme Court in the 1983 Chadha case. The Court said that whenever Congress wants to alter the rights, duties, and relations outside the legislative branch, it must act through the full legislative process, including bicameralism and presentment of a bill to the President. Congress could not, said the Court, rely on mechanisms short of a public law to control the President or the executive branch. The item veto bill, however, relies on details in the conference report to determine to what extent the President can propose rescissions of budget authority.

Third, this bill enables the President to make law or unmake law without Congress. If Congress fails to respond to the President’s rescission proposals within the thirty-day period, his proposals become law. In fact, as soon as the rescission message is submitted to Congress, the President’s proposal takes effect. If Congress has to comply with bicameralism and presentment in making law, how can the President make law and unmake law unilaterally?

Constitutional problems in the bill? Proponents say not to worry. Section 3 authorizes expedited review of constitutional challenges. Any member of Congress or any individual adversely affected by the item veto bill may bring an action, in the U.S. District Court for the District of Columbia, for
declaratory judgment and injunctive relief on the ground that a provision violates the Constitution. Any order of the district court shall be reviewable by appeal directly to the Supreme Court. It shall be the duty of both the district court and the Supreme Court to advance on the docket and to expedite to the greatest possible extent the disposition of a case challenging the constitutionality of the item veto bill.

Evidently the authors of this legislation are concerned about the independence of the judiciary. A provision for expedited review to resolve constitutional issues is not boilerplate in most bills. You may remember that when we included a provision for expedited review in the Gramm-Rudman-Hollings Act of 1985, the result was a Supreme Court opinion that held that the procedure giving the Comptroller General the power to determine sequestration of funds violated the Constitution.

What do we try to accomplish in passing a bill that raises such serious and substantial constitutional questions? We should be resolving those questions on our own. All of us take an oath of office to support and defend the Constitution. During the process of considering a bill, it is our duty to identify—and correct—constitutional problems. We cannot correct these here because we cannot amend the conference report. It is irresponsible to simply punt to the courts, hoping the judiciary will somehow catch our mistakes.

As to the first constitutional issue: the impact that this bill might have on the independence of the judiciary. That is what the judges are concerned about, as reported by the New York Times today. Under this legislation, the President can propose rescissions for any type of budget item, regardless of whether it is for the executive, legislative, or judicial branch.

There is no provision for the judiciary and certainly none for Congress. The President has full latitude to look through any bill and propose that certain funds and tax benefits be cancelled.

The item veto bill would allow the President to rescind funds for all of the judiciary except for the salaries of Article III judges and judges. Anything else funds for courthouses, staff, expenses, etc. is subject to rescissions. Article III judges have neither the resources nor the funds to defend the Constitution.

The item veto bill would allow the President to rescind the judiciary’s budget prior to submission, then to give the President unilateral authority to revise an enacted budget. The judiciary is thus reduced to the status of a bill being sent back to Congress for review, waiting for the President’s approval or disapproval. This would mean that the judiciary will be unable to provide any meaningful independence from the executive branch.

Not only did Congress recognize this fundamental principal in the Budget and Accounting Act, it expressed the same value in legislation enacted in 1999. Although the 1921 statute prohibited the President from altering judicial budget estimates, the judiciary lacked a separate administrative office of its own. The 1939 statute considered it “anomalous and potentially threatening to the independence of the courts” for the chief litigant to have any control over the preparation of judicial budgets.

This anomaly was corrected by legislation in 1939 that created the Administrative Office of the United States Courts, with the director appointed by the President. The director prepared budget estimates submitted to the Bureau of the Budget and later to the Office of Management and Budget. The legislative history of the 1939 statute highlighted the need to protect the independence and integrity of the courts.

On January 8, 1938, an article in the Washington Post pointed out that the Federal Government was the chief litigant in the federal courts. While there was no intention on the part of the newspapers "even to intimate that the Attorney General would use their power over the purse strings of the judiciary to bring a recalcitrant judge into line," the mere fact that the Attorney General could do so if he wished constitutes a factor in the relationship between the judiciary and the courts which should be eliminated."

During floor debate on the bill creating the Administrative Office of the U.S. Courts, Senator Henry Ashurst, General Attorney, said: "It came to the same conclusion. No one believes," he said, "that either the present Attorney General or the preceding one would use his position to attempt to intimidate any judge; but we know enough about human nature to know that no man, not even a judge, is coldly impersonal and objective with one who holds the purse strings." In his testimony last year, Judge Merritt said that during the years between 1921 and 1939 the Budget Bureau had "refused to determine whether any of the judges were acting as judges," and the Department of Justice "cut judges' travel funds, eliminated bailiffs, criers and messengers, and reduced
The new procedure—this so-called line-item veto, enabling the President to simply cancel items of spending with which he does not agree, will make him, in fact, a super legislator. It will discourage him from using his existing constitutional veto powers to veto one or more sections of a bill and urge him to try to "fix" legislation with which he does not fully agree by canceling only portions of the bill. He will be the lawmaker sui generis because his cancellations will in practical effect, be absolute. The President—the only way to override his cancellations under the convoluted, stack-deck procedures set forth in this conference report.

The temptation to simply do a "cut and paste" job on spending bills, thereby foregoing the route of a full Presidential veto of an entire bill which might then be overridden will, it seems to me, be nearly overwhelming. As a result, we will have a President who not only proposes, but also "deproposes," in effect contriving the lawmaker in the White House circumventing in yet another way the principle of majority rule.

Additionally, such an approach will have the effect of discouraging a President from filing one bill, and thus through consensus and compromise and negotiations between the two branches, develop a new and better total product which he could then sign. If the goal of this bill is to allow the President to rescind appropriations for projects and programs he objects to, we will know that appropriations bills contain large lump-sum amounts. We don't put details, or items, in appropriations bills. How does the President reach that level of detail?

The answer is that this bill allows the President to rescind dollar amounts that appear not merely in a bill but also in the conference report and the statement of managers included in the statement of managers or in an appropriation law or in appropriations bills "signed into law" by the President. This is a very peculiar feature. If the President vetoes a bill and the veto is overridden, the enhanced rescission authority applies only to appropriations bills "signed into law" by the President. This is a very peculiar feature. If the President vetoes a bill and the veto is overridden, the enhanced rescission authority applies only to appropriations bills signed into law by the President. This is a very peculiar feature.

Similarly, if the President decides not to sign an appropriations bill and it becomes law after ten days, Sundays excepted, the President may not use the enhanced rescission authority either. You may recall that last December allowed the defense appropriations bill to become law without his signature.

Why does the enhanced rescission authority apply only to signed bills? If the goal is to maximize the opportunity for the President to rescind wasteful funds, why restrict the President this way? What is the purpose? Perhaps we are saying that if the President vetoes a bill, Congress overrode this second act by Congress should settle the matter. Congress has reaffirmed and reinvented the priorities established in the bill. Those priorities are not to be second-guessed in a rescission action.

Clearly this provision puts some pressure on a President not to exercise his constitutional right of veto which is set forth in section 7 of article I of the Constitution of the United States. If he vetoes a bill and Congress overrode this second act by Congress should settle the matter. Congress has reaffirmed and reinvented the priorities established in the bill. Those priorities are not to be second-guessed in a rescission action.

Conversely, this provision puts some pressure on a President not to exercise his constitutional right of veto which is set forth in section 7 of article I of the Constitution of the United States. If he vetoes a bill and Congress overrode this second act by Congress should settle the matter. Congress has reaffirmed and reinvented the priorities established in the bill. Those priorities are not to be second-guessed in a rescission action.
bicameralism and presentment? Clearly it failed both tests.

Similarly, Presidents sought authority to reorganize the executive branch and accepted the one-House veto that went with this delegation. Reorganization of the executive branch increases the executive authority, and the executive branch could not amend a presidential reorganization plan and it could not bury it in committee. The presidential plan would become law unless either House disapproved within a specific time period. Distinct and clear advantages to the executive branch may claim for it. All of us are capable of analyzing this issue. If the process established in this bill amounts to a legislative veto prohibited by the Chadha case, we are violating our oath of office in passing this bill. If enhanced rescission is of value, then we must vote down this bill and insist that its supporters construct an alternative bill that meets the constitutional test. To simply kick this issue to the Responsible House is a pro-cedural reason.

That returns us to my central question: Does the use of conference reports and statements of managers constitute an attempt by Congress to control the President short of passing a public law? Is this procedure a forbidden legislative veto? Whether it is a benefit, advantageous for the President is irrelevant in answering this constitutional question.

Let me put this another way. Suppose we itemize the $800 million lump sum into a hundred specific projects as part of the conference report and statement of managers. Suppose further that Congress becomes unhappy with the President’s subsequent rescission proposal and decides to retaliate the next year by eliminating all details in the conference report and statement of managers. Now the President is limited to the lump sum of $800 million in the bill. He can live with it or decide to propose the rescission of that full amount. Can any one doubt that Congress, in something that is short of a public law, is controlling the President this time in a negative or restrictive way?

Measure that fact against the explicit language of the Court in the Chadha case. Chadha examined the one-House veto over the suspension of deportations, the Court concluded that the congressional action was “essentially legislative in purpose and effect.” 462 U.S. at 952. Can anyone doubt that the congressional action in making language in a conference report and statement managers the explicit guide for presidential rescissions is “essentially legislative in purpose and effect”?

Moreover, the Court in Chadha decided that the disapproval by the House of suspended deportations “had the purpose and effect of altering the legal rights, duties, and relations of persons outside the legislative branch. Again, there can be no uncertainty about the purpose and effect of the conference report and the statement of managers. They have the purpose and effect of altering the legal rights, duties, and relations of the President in submitting rescissions. Proponents of this bill may claim that it will be beneficial and constructive. We may differ on that score, but there can be no doubt about how the Court will react to such arguments. In Chadha, the Court said that “the fact that a given law or procedure is efficient, convenient, and useful in facilitating the functions of government, standing alone, will not save it if it is contrary to the Constitution.” 462 U.S. at 944.

The question remains: Does this bill square with the Chadha ruling? If it does not, we are being asked to consciously adopt a bill that we know is unconstitutional, whatever merit its proponents may claim for it. All of us are capable of analyzing this issue. If the procedure established in this bill amounts to a legislative veto prohibited by the Chadha case, we are violating our oath of office in passing this bill. If enhanced rescission is of value, then we must vote down this bill and insist that its supporters construct an alternative bill that meets the constitutional test. To simply kick this issue to the Responsible House is a pro-cedural reason.

It is curious that Chadha told Congress that if you want to make law you must follow the entire process, bicameralism and presentment, and yet this bill allows the President to make law and unmake law without any legislative involvement. Under the terms of this conference report, whenever Congress receives the President’s special message on rescissions, the “cancellation of any dollar amount of discretionary budget authority, item of new discretionary budget authority, or amount of reduced tax benefit shall take effect.” The cancellation is “effective” upon receipt by Congress of the special message notifying Congress of the cancellation. Why is the cancellation “effective” before Congress has an opportunity to respond to the President’s message? The executive branch may have legitimate reasons to make sure that agencies do not obligate funds that are being proposed for cancellation, but the language in this bill is clearly not the role of Congress in canceling prior law.

Of course the bill gives Congress thirty days to disapprove the President, subject to the President’s veto and the need then for a two-thirds majority in each for the override. If Congress does nothing during the thirty day review period, the President’s proposals become binding and the laws previously passed and enacted are undone. Through this process the President can make or unmake anything without any necessary legislative action. How does that square with the intent and spirit of Chadha? Are we to argue that the President can make, or unmake, law singlehandedly and unilaterally, but Congress is compelled to follow the full lawmaking scheme laid out in the Constitution?

I earlier stated that placing details in a conference report and statement of managers violates Chadha because this phase of the legislative process is something short of a public law. It should be pointed out that in some legislative vehicles, like continuing resolutions, Congress incorporates by reference phases of the legislative process that are also short of a public law, such as a bill reported by committee or a bill that has passed one chamber. Yet those phases of the legislative process are in a vehicle—continuing resolution—that must pass both Houses and be presented to the President for his signature or veto. These precedents offer no support for the procedure adopted in this bill. The reference to committee report language in the item described in this conference report does not comply with Chadha.

This is an enormous shift of power to the President but we cannot be sure that the courts will reverse such an abdication. If Congress is unwilling to protect its prerogatives, the courts won’t always intervene to do Congress’ work for it. As Justice Robert J. Jackson said in the Steel Seizure Case of 1952: “I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. * * * We may say that power to legislate for emergencies belongs in the hands of Congress but only Congress itself can prevent power from slipping through its fingers.”

On March 2, 1805, Vice President Aaron Burr bid adieu to the Senate, stepping down to make way for the new Vice President, George Clinton, who had been elected to serve during Jefferson’s second term. Burr’s farewell speech, according to those who heard it, was received with such emotion that Senators were brought to tears and started their business for the evening. It was truly one of the great speeches in the Senate’s history: “This House,” said Burr that day, “is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here in this exalted refuge, where all who seek the protection of this sanctuary be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this Floor.”

I regret to say, Mr. President, that, in my opinion, before this day is done, the ingenious prescience of Aaron Burr will have made itself manifest in the fateful events that will inevitably unfold and which will be witnessed on this Floor.

Philosophers, in their dreams, had constructed ideal governments Platon had legislated in the bliss of his fanciful Republic. Sir Thomas More had taken great satisfaction in the refugial visions of his Utopia. The immortal Milton had expressed his exalted vision of freedom. Locke has published his so-called natural law and principles of government. But never, until the establishment of American independence and the drafting and ratification of that charter which embodied in it the checks and balances and separation of powers, our own constitutional system, was it ever acknowledged by a people, and made the cornerstone of its government, that the
sovereign power was vested in the masses.

It was just such a noble attachment to a free constitution which raised ancient Rome from the smallest beginnings to the bright summit of happiness and liberty, and when the Republic arrived, and it was the loss of that noble attachment to a free constitution that plunged her from that summit into the black gulph of indolence, infamy, the loss of liberty, and made her the slave of blood-thirsty dictators and tyrannical emperors.

It was then that the Roman Senate lost its independence, and her Senators, forgetful of their honor and dignity, and seduced by base corruption, betrayed their country. Her Praetorian soldiers urged only by the hopes of plunder and luxury, unfeelingly committed the most flagrant enormities, and with relentless fury perpetrated the most cruel murders, whereby the street and palace of imperial Rome were drenched with her noblest blood. Thus, the empress of the world lost her dominions abroad, and her inhabitants dissolve in their manners, at length became contented slaves, and the pages of her history reveal to this day a monument of the eternal truth that public happiness depends on an unshaken attachment to a free constitution.

And it is this attachment to the Constitution that has preserved the cause of liberty and freedom throughout our land and which today undergirds the noble experiment that never has ceased to inspire mankind throughout all the earth.

The gathered wisdom of a thousand years cries out against this conference report. The history of England for centuries is against this conference report. The declarations of the men who framed our Constitution stand in its way.

Let us resolve that our children will have cause to bless the memory of their fathers, as we have cause to bless the memory of ours.

Let us not have the arrogance to throw away centuries of English history and over 200 years of the American experience for political expediency. No party, Republican or Democrat, is worth the price that this conference report will exact from us and our children. Considering the fact that only 20 years of the regular veto have been overridden over a period of more than 200 years, it stands to reason that even a much smaller percentage of vetoes of disapproval bills will arise sufficient sentiment in both Houses to produce a two-thirds vote to override. Hence, the President’s single act of rescinding an appropriation item will be tantamount to its being stricken from the law.

This is an enormous power for the Legislative Branch to transfer into the hands of any President. The power to rescind will be tantamount to the power to amend, and this conference report will transfer to any President the power to single-handedly amend a law passed by a two-thirds vote of both Houses. Where, as a majority of both Houses is required to amend a bill by striking an item from the bill, the President will be handed the power to strike an item from a law which, if done by action of the Legislative Branch, would require the votes of 51 Senators and 218 members of the House, if all members were in attendance and voting. What an enormous legislative power to place in the hands of any President!

Mr. President, let us learn from the pages of Rome’s history. The basic lesson that we should remember for our purposes here is, that when the Roman Senate gave away its control of the purse strings, it gave away its power to govern. At that check point, the Senate declined and, as we have seen, it was only a matter of time. Once the mainstay was weakened, the structure crumbled and the Roman republic collapsed.

This lesson is true today as it was two thousand years ago. Does anyone really imagine that the splendors of our capital city stand or fall with mansions, monuments, buildings, and piles of masonry? These are but bricks and mortar, lifeless things, and their collapse or restoration means little or nothing when measured on the great clock-tower of time.

But the survival of the American constitutional system, the foundation upon which the superstructure of this republic rests, finds its firmest support in the continued preservation of the delicate mechanism of checks and balances, separation of powers, and control of the purse, solemnly instituted by the Founding Fathers. For over two hundred years, from the beginning of the republic to this very hour, it has survived in unbroken continuity. We received it from our fathers. Let us as surely hand it on to our sons and daughters.

Mr. President, I close my reflections with the words of Daniel Webster from his speech in 1832 on the centennial anniversary of George Washington’s birthday:

Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it. If it exhaust our Treasury, future industry may replenish it. If it destroy our forests, still, under a new cultivation, they will grow green again and ripen to future harvests. It was but a trifle even if the walls of yonder Capitol should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-appointed columns of constitutional liberty? Who shall gather together the marble edifice which unites national sovereignty with State rights, individual security, and public happiness and glory to which unites national sovereignty with State rights, individual security, and public happiness?

These are the lessons that the Senate must remember. These are the lessons that the Senate must learn. And if the Senate should fail to learn them, it will be raised not again. Like the Colosseum and the Parthenon, they will be destined to a mournful, a melancholy immobility. And two centuries, however glorious them than were ever shed over the monuments of Roman or Grecian art. For they will be the remnants of a more glorious edifice than Greece or Rome ever knew, the edifice of constitutional American liberty.

Mr. President, I ask unanimous consent to have printed in the Record the newspaper article to which I alluded earlier today under the headline of ‘JUDGES’ GROUP CONDEMNS LINE-ITEM VETO BILL’—that is an article from the New York Times—一起 with a letter addressed to me by Leonidas Ralph Mecham, Secretary of the judicial council of the United States, in which he expresses concern with respect to the conference report before the Senate; an item from the Legal Times, the week of March 25, 1996, entitled ‘Points of View: Loosening the Glue of Democracy, the Line Item Veto Would Discourage Congressional Compromise.’ The article is by Abner J. Mikva, a retired judge who served on the U.S. Court of Appeals for the D.C. Circuit, a former White House counsel for President Clinton, and a former Member of the U.S. House of Representatives. He served as chief judge in the D.C. circuit from 1991 to 1994.

Mr. President, with the permission of the distinguished Senator from New York [Mr. MOYNIHAN], I ask unanimous consent that a letter from Michael Gerhardt, a professor of law at the College of William and Mary, also be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 27, 1996]

JUDGES’ GROUP CONDEMNS LINE-ITEM VETO BILL

(By Robert Pear)

WASHINGTON, March 26—The organization that represents Federal judges across the country today denounced a plan developed by Republican leaders of Congress that would allow the President to kill specific items in spending bills.

The organization, the Judicial Conference of the United States, said such authority posed a threat to the independence of the judiciary because a President could put pressure on courts to reduce funding or to vetoing items in judicial appropriations bills.

The proposal would shift power to the President from Congress, permitting him to block particular items in a spending bill without having to veto the entire measure. Early last year the House and Senate approved different versions of the proposal, known as a line-item veto. Recently they struck a compromise, which is expected to win approval in both chambers this week. President Clinton supports it.

But any line-item veto bill signed by the President is sure to be challenged in court, and critics predict the judicial conference suggests that it may get a chilly reception.
Judge Gilbert S. Merritt, chairman of the executive committee of the Judicial Conference, said it was unwise to give the President authority over the judicial budget because 'runaway Federal spending would be the litigant in Federal court, with tens of thousands of cases a year.' The potential for conflict of interest is obvious, said Judge Merritt, who is also chief judge of the United States Court of Appeals for the Sixth Circuit. The court's headquarters is in Cincinnati: 'Judge Merritt's chambers are in Nashville.'

In approving the line-item veto, Congress said it was necessary to curb 'runaway Federal spending.'' Judge Merritt said the inclusion of the judiciary among agencies subject to the line-item veto was 'ill-conceived' in the bill.

The line-item veto was a major element of the Republicans' Contract With America and is a top priority of Senator Bob Dole, the majority leader, who has all but clinched the Republican nomination for President. The House passed its version of the line-item veto in February 1995, by a vote of 294 to 134. The Senate approved its version, 60 to 29, in March 1995, with 19 Democrats supporting it.

Under the compromise struck this month, the President could cancel spending for projects or programs and charters of companies a bill, as well as in the bill itself. He could also cancel any new tax break that benefits the people as a whole.

Alan B. Morrison, a lawyer at the Public Citizen Litigation Group who has successfully challenged several unconventional lawmaking procedures, said in an interview: 'In my view, this bill is unconstitutional. It certainly will be challenged in court.'

Mr. Morrison said the line-item veto trampled on the procedure set forth in the Constitution for making law. Under that procedure, he said, the President may veto whole bills but not pieces of a bill.

In recent weeks, the decisions of several Federal judges have been harshly criticized by the White House and Republican candidates for President. Judges Merritt said such criticism highlighted the need for judicial independence.

'Judges were given life tenure to be a barrier against the winds of temporary public opinion,' said Judge Merritt. 'If we didn't have judicial independence, I'm not sure we could have much of a free country that has rights and constitutional liberties that we take for granted.'

In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, said: 'The doctrine of separation of powers recognizes the vital importance of protecting the judiciary against interference from any President. This protection needs to endure. Control of the judiciary's budget rightly belongs to the Congress and not the Executive Branch.'

Judge Richard S. Arnold, chairman of the budget committee of the Judicial Conference, said in an interview: 'We don't have any qualms about this particular President, but in the past, the Supreme Court has written about providing any President with a weapon that could, in the wrong hands, be used to retaliate against the courts for deciding cases against the Federal Government.'

Judge Arnold, a longtime friend of Mr. Clinton, is chief judge of the United States Court of Appeals in the Eighth Circuit, which has its headquarters in St. Louis.

The Federal judiciary has a budget of $3 billion a year, according to the budget committee of the Eighth Circuit, which has its headquarters in St. Louis.

The line-item veto could excise the appropriation for a particular bill or ' bundled' into one bill so that the President must either swallow the whole thing or veto the whole thing. This is very messy and wasteful. Reformers generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has made me a hostage to the law. I can't see how the appropriations process, back in the Illinois legislature, seemed the height of irresponsibility to bundle dozens of purposes into a single bill. It also seems irrational since the Illinois Constitution had a "single purpose" clause, under which bills considered by the legislature were to contain only one purpose. But the 'single purpose' clause had been observed in the breach for many years by the time I was elected in 1966. How then does it make sense when the Bundled, for final passage, appropriated money for both the Fair Employment Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) and one to study the size of mosquitoes that inhabited the downtown portion of Illinois.

If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I thought were wasteful. So I invoked the Constitution clause one of the causes of the mini-revolts that perpetually arise. The have-nots feel excluded from the process, while the majority for the military, regional interests and farm subsidies. It is true that bundling encourages the merger of bad ideas with good ideas, and distorts the ability of the political coalitions that are normal in this country creates enormous pressure on the central government. This pressure is only one of the causes of the have-nots feel excluded from the process, while the majority are exercised their power without taking care of the depressed areas of the country.

It is more difficult to ignore the have-nots in the United States. First of all, members of Congress are elected as representatives of geographic areas, rather than as representatives of parties. Woe betide the congressman who starts to vote like a national legislator and forgets the parochial interests of his constituents.

Second, the separate elections of the president and Congress create the necessity for the two branches to cooperate in setting spending priorities. Floating coalitions that take into account the needs of all the sections and groups in the country become essential. When urban interests wanted to promote a food program for the cities, for example, they formed a coalition with agricultural interests, and food stamps were joined with farm subsidies.

It is true that bundling encourages the merger of bad ideas with good ideas, and distorts the ability of the political coalitions that are normal in this country creates enormous pressure on the central government. This pressure is only one of the causes of the have-nots feel excluded from the process, while the majority are exercised their power without taking care of the depressed areas of the country.
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The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is buttressed by the recognition that pork barrel legislation—putting language in legislation passed by Congress and presented to the President for signature as such—preempts the President from making. The framers designed the legislative veto as a constitutional provision for the purpose of holding the executive branch accountable. The framers and Madison were acutely aware that the executive branch was strong enough, and that an imperial presidency was more of a threat than an overprescriptive Congress, the current balance of power is just right.

That has been the gist of Sen. Robert Byrd's opposition to the line-item veto. The West Virginia Democrat has argued that the executive's appropriations power, the power of the purse, is the only real power that Congress has and that the line-item veto would diminish that power. Furthermore, he has argued that the President has prevailed—although last year, the reason he prevailed had more to do with the Republicans' unwillingness to give such a powerful tool to the President.

But now the political dynamics have changed. The Republicans in Congress can fashion their policy with my bias toward the incumbent president—unless he gets re-elected—and their probable presidential candidate, Senate Majority Leader Robert Dole, has recently made clear that he wants the change and why, up to now, most Congresses have resisted the idea. The line-item veto transfers an enormous amount of power from Congress to the President.
Undoubtedly, the Court would follow a formalist approach in striking down the Republican draft. For one thing, the Court would not be able to escape applying the logic of Bowsher. The proposed legislation was, as the crucial problem Bowsher was Congress' attempt to authorize the exercise of certain executive authority by a legislative agent. General Kassar problem is that the President would plainly be exercising what everyone agrees is legislative authority—the discretion to determine whether it would be in favor of a specific expenditure that is now severed from the other items of the compromise giving rise to its inclusion in the first place in order to put into law a particular expenditure.

A third constitutional problem with the Conference Report involves the constraints it tries to place on the President's cancellation authority. The latter if for all intents and purposes a purely administrative procedure. It would empower him to reconfigure what Congress has passed as a bill into some other form prior to its becoming a law. Congress lacks the constitutional authority by limiting the grounds a president may consider as appropriate for vetoing something. Even apart from whatever constitutional problems the Conference Report may have, it poses two serious practical problems. First, the possibility of substantial judicial review. The President's exercise of legislative authority, albeit in their discretion to determine priorities as well as to make those determinations contained'' within it. At the very least, the bill precludes the House or the Senate from taking issue with the judgment of the President and Congress that the federal public's confidence that the political process is the place to turn for answers to such deadlocks. Another practical difficulty is with the authorization made by the Republican draft to the joint Committee on Taxation to render an official opinion, which may become a part of a budgetary or appropriations measure, on whether it 'contains any targeted tax benefits to the House or the Senate from taking issue with the judgment of the joint Committee's finding. As a practical matter, this would empower a small number of members of Congress to impose their will on the whole body. Although this might have the salutary effect of expediting the passage of the congressional legislation, it forces those members of Congress who disagree with the joint Committee to express their disagreement only by voting down rather than by amending a bill that they otherwise would support. In summary, I believe that the Republican draft conflicts with the plain language, and the traditional understanding of the lawmaking process set forth in Article I; relevant Supreme Court doctrine; and the delicate balance of power between Congress and the President on budget matters. I am confident that the Supreme Court ultimately would strike down the bill if it was passed by Congress and signed into law by the President.

It has been a privilege for me to share my opinions about the Conference Report with others who have any other questions or need any further analysis, please do hesitate to let me know. Very truly yours,

MICHAEL J. GERHARDT, Professor of Law

FOOTNOTES

1 U.S. Const. art. I, section 7, cl. 2, 3.
2 Laurence Tribe, American Constitutional Law 265 (2d ed. 1988).
4 The Federalist No. 58 at 300 (J. Madison) (M. Beloff ed. 1987).
5 Congressional Research Service, Memorandum Rec. 97-191 S 4, to Grant President Enhanced Rescission Authority over Appropriations and Targeted Tax Benefits, at 26 (January 9, 1995).
8 111 U.S. 714 (1884).
11 Professor of Law.
SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) In General.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"SEC. 1012A. (a) Proposed Cancellation of Budget Item.—The President may provide, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

(b) Transmittal of Special Message.—(1) Not later than the time limits provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that includes proposed cancellation for deficit reduction as provided in paragraph (4).

(2) A special message may be transmitted under this section—

(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

(ii) at the same time as the President's budget.

(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President, in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

(A) the amount that the President proposes to cancel from the budget of the House;

(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental function involved;

(C) the reasons why the budget item should be canceled;

(D) the extent to which the budget item can be, in the President's judgment, reduced without impairing the ability of the Government to carry out the purposes of such budget item;

(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

(F) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission.

(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

(ii) with respect to a repeal of a tax expenditure, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chair of the Committee of the Senate on the Budget and the chair of the Committee of Representatives shall convene a joint session under section 602(a) to reflect such amount.

(5) Procedures for Expeditied Consideration—

(b)(1) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under paragraph (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

(b)(2) The bill shall be referred to the appropriate committee or committees in the House of Representatives, respectively, and shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

(b)(3) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

(b)(4) A vote on final passage of the bill under this subsection shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

(b)(5) A vote on final passage of the bill under this subsection shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

(b)(6) A vote on final passage of the bill under this subsection shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

(b)(7) A vote on final passage of the bill under this subsection shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

(c) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A conference report is agreed to or disagreed to.

(d) Debate in the Senate on any bill under this subsection shall not exceed 1 hour, to be equally divided between, and controlled by, the majority leader and the minority leader.

(e) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to this subsection shall be controlled by the majority leader and the minority leader.

(f) A motion to reconsider the conference report is not in order, and it is not in order to reconsider the conference report by unanimous consent.

(g) Amendments and Divisions Prohibited.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be limited to not more than 2 hours, and no division shall be in order in the House of Representatives or the Senate.

(h) Temporary Presidential Authority To Rescind.—At the same time as the President transmits to Congress a special message proposed to be rescinded and budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be available for use after the 30th day after the date of the conference report is agreed to or disagreed to.

(i) During consideration of a bill under this subsection in the Senate, the Senate may move to reconsider the vote by which the motion is agreed to or disagreed to.

(j) During consideration of a bill under this subsection in the House of Representatives, no motion to reconsider the vote by which the motion is agreed to or disagreed to shall be in order.

(k) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

(l) During consideration of a bill under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

(m) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to reconsider the vote by which the motion is agreed to or disagreed to.

(n) During consideration of a bill under this subsection in the House of Representatives, any Member of the House of Representatives may move to reconsider the vote by which the motion is agreed to or disagreed to.

(o) A motion to suspend the application of this subsection by unanimous consent shall not be in order.

(p) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to reconsider the vote by which the motion is agreed to or disagreed to.

(q) During consideration of a bill under this subsection in the House of Representatives, any Member of the House of Representatives may move to reconsider the vote by which the motion is agreed to or disagreed to.
"(f) Definitions.—For purposes of this section—

(1) the term 'appropriation Act' means any general or special appropriation Act, and any joint resolution making supplemental appropriations;

(2) the term 'direct spending' shall have the same meaning as such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

(3) the term 'budget item' means—

(A) with respect to a budget item provided in an appropriation Act, (B) an amount of direct spending; or

(C) a targeted tax benefit;

(4) the term 'cancellation of a budget item' means—

(A) the rescission of any budget authority provided in an appropriation Act;

(B) the repeal of any amount of direct spending; or

(C) the repeal of any targeted tax benefit; and

(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a differential, or a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such provisions may not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

(b) Exercise of Rulemaking Powers.—Section 304 of the Congressional Budget Act of 1974 (2 U.S.C. 621) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) Clerical Amendments.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following new section:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeal of tax expenditures and direct spending.

"(a) General.—This section shall be referred to as the "Legislative Line Item Veto Act".

"(b) SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCSSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

"(1) No later than 5 days after the date of enactment of a bill containing an amount specified in subsection (b), the President shall transmit to Congress a special message identifying any budget item that is budgeted and not debatable. The President shall send the special message (draft and final) to the Committees on the Budget of the Senate and the House of Representatives.

"(2) (A) A special message may be transmitted to Congress under subsection (b) if—

(i) the President has transmitted an item to Congress under subsection (b); and

(ii) at the same time as the President's special message, the committee of conference and the appropriate committees in the Senate or the House of Representatives shall send to Congress a separate special message and accompanying draft bill for each such committee.

(3) Each special message shall identify each budget item that is designated for deficit reduction and provided in paragraph (2).

"(c) Procedures for Expedited Consideration of Certain Proposed Rescissions and Repeals of Tax Expenditures and Direct Spending.—

"(1) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of the special message, any Member of either House may introduce the bill.

"(2) The bill shall be referred to the appropriate committee of the House of Representatives. The bill shall be placed on the appropriate calendar.

"(3) The vote on the final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th day of session of that House after the date of receipt of the special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of either House may introduce the bill.

"(4) (A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of the special message, the committees on the budget (including the Appropriations Committees) shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committees shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(B) A motion to recommit the bill shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion to limit debate shall not be debatable.
subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

“(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives in a determination relating to a bill under this section shall be decided without debate.

“(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any provision of a bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

“(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

“(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader of their designee.

“(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 50 hours. The time shall be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control, require that an additional time to any Senator during the consideration of any debatable motion or appeal.

“(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to reconvene a bill under this subsection is not in order.

“(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), any Senator may offer as an amendment the text of the conference report as introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

“(4) Debate in the Senate on any bill considered under this section shall be limited to not more than 100 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. If such a motion to limit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

“(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendments to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the time on the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

“(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President, the Senate shall transmit to the House a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

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

“(1) the term ‘appropriation Act’ means any general or specific statute, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

“(2) the term ‘direct spending’ shall have the same meaning given such term in section 251(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985;

“(3) ‘the term ‘budget item’ means—

“(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

“(B) an amount of direct spending; or

“(C) a targeted tax benefit;

“(4) the term ‘cancellation of a budget item’ means—

“(A) the rescission of any budget authority provided in an appropriation Act;

“(B) the repeal of any amount of direct spending; or

“(C) the repeal of any targeted tax benefit; and

“(5) the term ‘targeted tax benefit’ means any provision which has the practical effect of providing a benefit in the form of a limited class of taxpayers, whether or not any provision is limited by its terms to a limited class of taxpayers, whether or not such provision is limited by its terms to a limited class of taxpayers.

“(b) Exercise of Rulemaking Powers.—

“(1) in subsection (a), by striking ‘paragraph (1)(A)’ and inserting ‘paragraph (1)(A) and (B)’; and

“(2) in subsection (b), the cancellation of any provision which has the practical effect of providing a benefit in the form of any such category of taxpayers.

“(c) Clerical Amendments.—The table of sections for subpart B of title X of the Congressional Budget Act of 1974 (2 U.S.C. 611 et seq.) is amended—

“(1) in subsection (a), by striking ‘and 1017’ and inserting ‘1012A, and 1017’; and

“(2) in subsection (b), the cancellation of any such category of taxpayers.

“(d) Effect of Cancellation.—The amendments made by this Act shall—

“(1) take effect on the date that is 1 day after the date of enactment of this Act; and

“(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

“(3) cease to be effective on September 30, 2002.

“Mr. BYRD. Mr. President, I ask for the yeas and nays. The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

“Mr. BYRD. Mr. President, I ask for the yeas and nays.

“Mr. BYRD. Mr. President, I send an other amendment to the desk.
“(D) the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed action, and any amendment to the proposed action, and to the extent practicable, the estimated effect of the proposed action on the budget requested by the President for the fiscal year following the fiscal year in which enactment of the Act is requested. The amendment shall not exceed 24 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to reconsider a bill under this subsection or to move to reconsider the vote by which the amendment is agreed to or disagreed to.

“(C) Debate in the House of Representatives on any debatable motion or appeal in connection with a bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

“(B) during consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a targeted tax benefit.

“(A) the rescission of any budget authority provided in an appropriation Act; and

“(B) the repeal of any amount of direct spending; or

“(C) the repeal of any targeted tax benefit; and

“(D) the term `targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a differential treatment to a particular taxpayer or a class of taxpayers, regardless of whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers on the basis of general demographic conditions such as income, number of dependents, or marital status.”

“(A) any amount, in whole or in part, of budget authority provided in an appropriation Act; and

“(B) the term `cancellation of a budget item' means—

“(C) the rescission of any budget authority provided in an appropriation Act; and

“(D) the repeal of any amount of direct spending; or

“(E) the repeal of any targeted tax benefit; and

“(F) the term `targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a differential treatment to a particular taxpayer or a class of taxpayers, regardless of whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers on the basis of general demographic conditions such as income, number of dependents, or marital status.”
(3) cease to be effective on September 30, 2002.''

Mr. DOMENICI. Mr. President, before I suggest the absence of a quorum, let me ask Senator BYRD if he is getting close to being able to agree to a time limit.

Mr. BYRD. Yes, I am.

Mr. DOMENICI. Mr. President, we are in the process of restructuring this to accommodate what he has done. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I believe we are ready to enter into an unanimous-consent agreement. I am going to read it. Senator BYRD has seen it. Perhaps he has some suggestions, but let us get it on the Record right now.

I ask unanimous consent that during the consideration of the conference report on S. 4, the line-item veto bill, there be a total of 9 hours for debate on the conference report, with 4 hours under the control of Senator DOMENICI, or his designee, with the last hour of Senator DOMENICI’s time under the control of Senators McCAIN and COATS; further, the remaining 5 hours under the control of Senator BYRD; any motions be limited to 60 minutes equally divided and any amendments thereto be limited to 60 minutes equally divided, as well, with all time counting against the overall limitation for debate; and further, that following the expiration or yielding back of time and disposition of any motions, the Senate proceed to vote on the adoption of the conference report with no intervening action.

I further ask unanimous consent that all the time used for debate up to now on the Republican side relative to the conference report be deducted from the time allotted under the consent agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Time is now controlled.

Mr. DOMENICI. I thank the Chair, and I thank Senator BYRD.

The PRESIDING OFFICER. Time is now controlled. Who yields time?

Mr. DOMENICI. Mr. President, pursuant to a parliamentary inquiry. How much time have we used on our side in favor of the bill?

The PRESIDING OFFICER. The majority has used 38 minutes.

Mr. DOMENICI. I thank the Chair. I yield the floor.

Mr. HATFIELD addressed the Chair.

Mr. HATFIELD. I thank the Senator from West Virginia for his yielding me time.

Mr. President, a very interesting experience occurred this morning at the Senate prayer breakfast. That is that former Supreme Court justices from Maryland came to join us and some of the newer Senators sitting in our area, and we were informed about Senator Joe Tydings’ father, Senator Millard Tydings, who represented the State of Maryland and had a very interesting political career and that it was that he stood up, as a Democrat, to the effort on the part of President Roosevelt in 1937 to alter the structure of the Supreme Court, and that, as a result, President Roosevelt undertook a purge in the 1938 elections of those Senators who blocked his effort to change the structure of the Supreme Court which was in effect termed in those days “to pack the Court.”

But he failed because the people of Maryland, as well as the people from Georgia, both returned those Senators that helped fight the packing of the Supreme Court—Democrats. They said, in effect, we support Mr. Roosevelt and the New Deal, but when he begins to tamper with the capability to check the New Deal and the checks and balances that our forefathers established in the Constitution, President Roosevelt has gone too far.

Mind you, at that time, Mr. President, there were about 19 Republicans sitting on this side of the aisle, out of the 96, and they had what they called the Cherokee strip because there were not enough seats for the Democrats to stay on that side of the aisle, and they took these back rows across this Senate and occupied those.

Senator Charles McNary of Oregon, with his little band of 19 Senators, with the assistance of the Democrats who would not support a Democratic President in packing the Supreme Court, held Mr. Roosevelt’s coat and blocked it.

Mr. Roosevelt was not suggesting that we change the Supreme Court in terms of its rulings and its duties, “But just let me appoint one here and one there and one somewhere else when they get a certain age and they have not retired,” because he was facing a hostile Supreme Court which was knocking down his legislation point by point when they found it to be unconstitutional.

Mr. President, this is the greatest effort to shift the balance of power to the White House that has happened since Franklin Roosevelt attempted to pack the Supreme Court. He is asking, “Oh, just give me a little veto here and a little veto there and a little veto somewhere else, and I select.”

This is a concentration and transfer of power to the White House, that has happened since Franklin Roosevelt attempted to pack the Supreme Court. He is asking, “Oh, just give me a little veto here and a little veto there and a little veto somewhere else, and I select.”

This is a concentration and transfer of power to the Chief Executive. I think it is contrary to Tydings constitutional practice. I am appalled that my colleagues on the Republican side should help by leading the effort to give more power to the White House, more power to the President of the United States. I suppose this is a generational gap. I grew up thinking only Franklin Roosevelt would ever be the President of the United States. And the Republican cry was, “He’s leading us to a dictatorship,” the concentration of power in the President’s hands. The Republican campaign songs, campaign speeches in campaign after campaign, whether you were running for county sheriff or for Governor or for Senator, was to point to the fact that under the New Deal and under FDR, they were concentrating power in the hands of the Chief Executive. And they were.

But here we are now, anxious to say, “Oh, please, Mr. President, take this new power. We don’t have the ability to exercise the constitutional responsibility of creating and holding the purse strings.”

That is what it is. Call it by any other name, it is still a transfer of power and an enhancement of power in the hands of the President. I think it is a sad commentary on the responsibility and the history and the constitutional duties of the U.S. Congress to say to the President, “We don’t have to exercise your discretion, so we’re going to dump it in your lap.”

That was the story we talked about this morning with Senator Joe Tydings, because his father had the courage to stand firm as a Democrat against a Democratic President who wanted to stop this kind of imbalance that was being suggested by the President of the United States to add new members to the Supreme Court so he could have his total way. He controlled the Congress of the United States by extraordinary, extraordinary, extraordinary minorities. But it was the Supreme Court that got in his way. So he was going to change the structure of the Supreme Court so he could have more power. Now, here is an interesting thing. Here is a Republican-led effort to give more power to a Democratic President. Maybe the election will change that in November, but once you transfer that power, no matter who is the President, you have transferred power to the other branch of Government.

One last little incident that I want to mention, and that is a few years ago. Senator Frank Church, a Democratic Senator from Idaho—Senator Church had been a strong supporter of President Johnson’s Vietnam policy. The day came when he decided to join those of us who were opposing the Vietnam policy, and he got up over there—and I can remember how he made his speech, of stating his position now as an opponent of the Vietnam war. In that speech he quoted Walter Lippmann, who was a very renowned, very respected writer and had commented extensively on the issue of the Vietnam war.

So here is Walter Lippmann in his speech, in saying, “I now stand, and I hate to say this to President Johnson, but I have to now take my position in opposition to the war policy.”
Well, a week or so later Senator Church and Bethine, his wife, were down at the White House for a social function that President Johnson invited them to. As was the custom, they were going through the receiving line to the President's Kremlin for the House side. You say different kinds of little remarks at that point to the President, very much a personal eyeball to eyeball. So Frank Church said to President Johnson, “You know, I have this Idaho project, and it’s going to be coming over to the House. I hope you’ll help me on it.” President Johnson looked him straight in the eye and said, “Why don’t you go ask Walter Lippmann for it.” “Why don’t you go ask Walter Lippmann for it.”

I do not have to draw a picture to see the linkage in the President’s mind that you have decided not to support me on a war policy, well, I probably will be less than helpful to you on some kind of a project you have in Idaho. It invites political mischief. I can imagine the days when I stood very much in the minority on this Senate floor in opposing that Vietnam policy. I can very well imagine that I could have been given the same kind of treatment extending to Frank Church, probably more likely because I was a Republican.

But let me say, there is not a single Senator in this body who could not become a target for that kind of political mischief. I can imagine the days when Senator Church stood very much in the minority on this Senate floor in opposing that Vietnam policy. I can very well imagine that I could have been given the same kind of treatment extending to Frank Church, probably more likely because I was a Republican.

Likewise, it invites political mischief in this body, the Congress. They can load up a bill and say, “Well, the President now will have to veto that. He’ll have to take that kind of political stance. We can embarrass him by forcing him to veto that out of the bill.” I do not think we want to do that either.

I only wish that we would read our history, and remember that we came to this country to escape monarchies, dictators, czars, kaisers, and those powerful people who can even control their governments. We deliberately set up three branches of government; we deliberately assigned different powers; at the same time, we had mixing of powers. We are in the middle of an appropriation effort. There is not one way the President of the United States can force us to appropriate a dollar we do not want to appropriate. However, we cannot appropriate a dollar without the President’s approval or veto. That is the mixing of powers. He has legislative powers; he has executive powers. Consequently, we should not tinker with something that has worked very well for over 200 years in the separation of powers.

I want to say, I do not trust any President—I do not care whether he is Democrat or Republican—wanting to exercise all the power we want to give to the President, to the Chief Executive of this body that votes for this in the younger generations will live to see the day when it passes that they will regret that they bestowed this kind of power on the Chief Executive of the United States. It is contrary to our Republican doctrine. We want the diffusion and the decentralization of power. Yet the same Republicans that talk on the one hand about too much power in the Federal Government, we should give more power to local government or more power to the private sector, are now wanting to bestow an additional amount of power on the Chief Executive.

I yield the floor.

Mr. BYRD. Mr. President, I ask that the time that was consumed by Mr. HATFIELD be charged against the 5 hours under my control and not against the time on the motion. The PRESIDING OFFICER. The Senator from West Virginia has the floor. The time will be charged that way.

Mr. STEVENS. Mr. President, I yield such time as I need. It will not be very long. I do want to say at the beginning that I am of the generation of the Senator from West Virginia and the Senator from Oregon, and have taken the positions they have stated in the past. I am here today to explain why I support this bill.

Mr. DOMENICI. Will the Senator yield?

Mr. STEVENS. I yield. Mr. DOMENICI. Whatever time is consumed by the Senator, I ask that it be charged against the bill and not against the motion. The PRESIDING OFFICER. The Senator has that prerogative. It will be charged that way.

Mr. STEVENS. Mr. President, I was pleased to be able to file this conference report on S. 4, which is called the Line-Item Veto Act. If enacted, I believe it will be the most significant delegation of authority by the Congress to the President since the Constitution was ratified in 1789.

What the Senator from West Virginia and the Senator from Oregon have said is true. It is a major, major, change in the policy of the Congress toward the executive branch. It is a temporary delegation of authority under this bill. This delegation is necessary and appropriate to help reduce the current Federal budget deficit, a deficit that I believe threatens to destroy the future well-being of our great Nation.

It is not without a lot of soul searching that I made the change in position that we have made on this bill. Mr. President, 43 Governors around the country have some form of line-item veto authority, including my own Governor in Alaska. As Governor of California, Ronald Reagan used the line-item veto authority to effectively reduce wasteful spending.

I have opposed this bill in the past because it did not cover the largest culprits of wasteful spending: entitlements and tax breaks. Together, they account for hundreds of billions of dollars each year. I opposed this bill because I did not think that we were committed to a balanced budget concept. This bill goes together with the balanced budget amendment and the significant steps that the Congress took in the Gramm-Rudman-Hollings procedures in my judgment, this bill will enable the President to assist carrying out the original intention of Gramm-Rudman-Hollings. At my request, the bill has been expanded and broadened to cover not only appropriations for specific projects but tax breaks and entitlements as well.

Today, Congress has the power to cut programs the President proposes that we believe are unnecessary, but unless the President vetoes an entire appropriations bill, he is powerless to single out specific projects. Likewise, unless he vetoes an entire tax bill, he cannot eliminate an unnecessary tax break designed to benefit only a narrow, special interest. This bill gives the President those powers temporarily.

In his annual State of the Union Address nearly 15 years ago, President Reagan came before us and asked us for the same power that Governors have, the power the Governor of California has, and that he enjoyed as the Governor of California. Today, we are giving a President what President Reagan requested, but it is enhanced, Mr. President. It is more than President Reagan requested. It has been a long time coming, and I am pleased and hope that we will fulfill his dream. I want everyone to understand it is much, much, greater than what President Reagan asked for.

I have supported this conference report because it includes the core concept that I insisted on when the Senate considered S. 4 a year ago. That was that the line-item authority would apply to all three areas of Federal spending. Until then, as I said before, the proposals for a line-item veto hit only appropriations and left those large culprits, entitlements and target tax breaks, untouched.

The conference report gives to the President the specific authority to cancel dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits in any law that is enacted after the effective date of this bill. With this authority, the President will be able to line out specific items in all three areas of Federal spending, whether it be appropriations, entitlements, or limited tax breaks.

The conference report would be effective immediately and the money that is not spent goes to deficit reduction. It is part of the budget process, in my opinion. Money that is saved because of the
exercise of the veto in this bill cannot be spent for any other purpose by the President or by Congress. Now, much has been said in the press about the need for the line-item veto to control wasteful spending through the appropriations process. We have heard from the former chairman of the Appropriations Committee and the current chairman of the Appropriations Committee. I still have hopes and dreams that I may be chair of the Appropriations Committee.

Many people wonder why I have changed my mind at this time. I think that some Members here seem to miss the fact that the discretionary appropriations account only for 35 percent—not even 35 percent, but approximately 35 percent—of Federal spending. The remainder of Federal spending is mandatory, in the form of entitlements, tax breaks, interest on the national debt, items we cannot control. There is no figure available for the amount of revenue that we return to the Government through these targeted tax breaks, what the conference report now calls limited tax benefits.

If the Balanced Budget Act that Congress passed this year, the President had not been vetoed, by fiscal year 2002 discretionary appropriations would account only for 26 percent of Federal spending, a decrease of 9 percent even without the line-item veto. Let me repeat that: Congress agreed to a bill that the President had vetoed that would have reduced the money covered by the appropriations process within a 7-year period by 9 percent. The Congress already vetoed the prospect of an increase to the extent of 9 percent, Mr. President. By contrast, entitlements under the balanced budget bill that we passed and the President vetoed would have grown from 55 percent to 60 percent of Federal spending. The increase would continue. That was an increase of 5 percent in 7 years with interest on the national debt accounting for the balance of Federal expenditures.

To put it another way, Mr. President, in 1980 the Defense Department accounted for 23 percent of Federal spending while the Social Security Administration accounted for 19 percent, and the Department of Health and Human Services 10 percent of total Federal spending. Seventeen years later, the Department of Defense will get 17 percent; Social Security, 25 percent; and the Department of Health and Human Services 22 percent. In other words, the Department of Defense continues to go down while Social Security and Health and Human Services continue to go up.

Defense spending is all discretionary. It would be said that the line-item veto under the original concept. The other two agencies that handle primarily entitlement programs would have been immune under the original line item veto concept.

This conference report allows the President to cancel new direct spending, which means any provision contained in nonappropriations laws which increase Federal spending above the current baseline. By allowing the President to cancel increases in existing entitlement programs, or the creation of new ones, the conference report provides the opportunity to control the explosive growth in mandatory spending. President can cancel under this bill, but the major part of it is the entitlement spending and the special tax breaks that account for so much of the problem.

In addition, if an authorizing law has the effect of requiring the expenditure of funds provided in appropriations law for a particular program or project, the President may also cancel the dollar amount specified in the authorizing law. In my opinion, the broad power we are delegating to the President of the United States.

The delegation is carefully structured in order to precisely define the President's authority. In order to increase the President's discretion to cancel dollar amounts, the conference agreed to allow the President to use the statement of managers or accompanying report to identify those dollar amounts.

In addition, the President is required to cancel the entire dollar amount and may not cancel part of that dollar amount. This limitation was included in order to ensure that the line item veto authority is not used to change policies adopted by the Congress that deals with appropriations or increases in tax benefits or entitlements. The line item authority cannot, for example, be used to reduce the amount appropriated for B-2 bombers so that the number of the bombers has changed. He must delete the entire amount to effect a change in policy.

Likewise, the conference made clear that the cancellation authority does not apply to any condition, limitation, or restriction on the expenditure of funds or activities involving expenditure of funds.

This means, for example, that the President cannot cancel a prohibition on the expenditure of funds or activities involving expenditure of funds.

The statement of managers before the Senate contains a number of specific examples to illustrate the conference intent with respect to those items the President may cancel in appropriations bills, and I want to incorporate those in my remarks at the conclusion.
I ask unanimous consent that they be printed following my remarks.

The PRESIDING OFFICER (Mr. LOTT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, as the Senator from New Mexico, PETE DOMENICI, said earlier today, this has been a difficult conference. Senator DOMENICI and his staff worked tirelessly on this conference report and deserve much of the credit for it.

Let me review just briefly some of the differences that had to be resolved. In the House bill, there was an enhanced rescissions approach, while the Senate bill that went to conference used separate enrollment.

The House bill applied only to appropriations and targeted taxes, while the Senate bill applied to appropriations, any tax that favored any one group, and new entitlement programs as well.

The House bill made the President's line item veto of a program effective after a congressional review period, while the Senate used a constitutional veto that was effective immediately.

The Senate bill contained a mandatory lockbox for deficit reduction. The House bill did not.

The Senate bill contained a sunset, and the House bill did not.

The list can go on and on, but foremost among all of these issues were real questions about just what it was that we were delegating to the President, an action that would be found constitutionally.

After many long days and nights, and not a few testy meetings—and I must say, these conferences were the most acrimonious I have faced in 28 years—I believe that we have taken the best elements of both bills and created something that will work as Congress intends. I think it may be too narrow, rather than too broad, before we are through.

More importantly, I think we have a clear delegation of authority to the President for a specific purpose, and it is for the purpose of deficit reduction. That is what will pass constitutional muster, and I urge Members to remember that.

This is a bill for deficit reduction that goes hand-in-hand with the concept of a balanced budget bill, a bill to require the elimination of a deficit. It is a mechanism to assist in congressional discipline to ensure that once the Congress and the executive branch exercise the discipline that is necessary to bring about an elimination of the deficit that so plagues our future. It is not something that is a permanent change in constitutional power. If it is to be continued, that is for someone who comes to this body after most of us will have left. But, as a practical matter, I think it is a step that must be taken if we are to demonstrate our complete commitment to the concept of eliminating a deficit and bringing about a balanced budget.

I want to congratulate the members of the conference. In particular, I want to point to the chairman of the Budget Committee, who was a cochairman of the Senate portion of the conference, and I point to Senators McCAIN and COATS, who brought the original concept to the floor, and Chairman CLINGER and the House side. Their hard work helped to bring this bill together and bring it before the two bodies now.

We are all indebted to our majority leader, Senator Dole. He really held our noses—and sometimes other things—to the grindstone.

I thank the current occupant of the chair, Senator LOTT, for his role as the assistant majority leader.

Mr. President, this bill is really a significant bill. Anyone who thinks it is something that should be passed over lightly is wrong. It is a major change in the balance of Government power. It is really a check on the checks and balances, as far as I am concerned.

We are indebted to the staff who worked out many of the problems which we encountered with this bill. We would point them in the general direction, and they came back with language and concepts that would fulfill our goal.

Earl Comstock, who is here with me now, on my personal staff; Christine Ciccone, who helped from the Governmental Affairs Committee; Austin Smythe, Bill Haagland, Beth Felder, John Schall; and the Budget Executive Committee; Mark Busey with Senator McCain; Sharon Soderstrom and Megan Gilly with Senator Coats; J. John Schall with Senator Dole; Monty Tripp with Chairman Clinger; Eric Peliter with Chairman Solomon; and Wendy Selig with Congressman Goss.

We got to know them pretty well, Mr. President. Unfortunately, they got to know us too well.

I think this is truly a momentous piece of legislation. I regret deeply that I disagree with my good friend from West Virginia and my chairman of the Appropriations Committee now.

In my judgment, if it is my watch between the years 1997 and 2000, I intend to see to it that the Appropriations Committee heeds this warning. If we take action which might lead to increases in the deficit, if we allow funds to be spent which are not necessary, I hope the President will use this authority which has included in the Appropriations Bill and the President does that, he or she—during this period we are dealing with, then I think this is a powerful tool that will go away.

The Congress will not allow the executive branch to have a power such as this to be exercised frivolously or politically.

This is a change in the Government structure we are suggesting. We are suggesting that the President hold the pen which allows the Congress to carry out the discipline that it imposed on itself. Gramm-Rudman-Hollings started this, Mr. President, and this bill that is before us today will continue the mechanisms of discipline to bring about elimination of the deficit. I pray to the good Lord that we will succeed this time.

Thank you, Mr. President. I have asked that one page from this report be printed after my remarks. I call the Senate's attention to it. I do hope every Senator will read it. It is on page 20, section 1021, line-item veto authority.

That is what this bill is, not what it is not, but that is what it is. I think Senators should realize that.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

EXCERPT FROM STATEMENT OF MANAGERS

(7) Dollar Amount of Discretionary Budget Authority. The term "dollar amount of discretionary budget authority" is carefully defined in section 10267 in order to ensure that the President's authority to cancel discretionary spending in appropriation laws is clearly delineated. The conference report delegates the authority to the President to cancel in whole any dollar amount specified in an appropriation law.

In addition, to increase the President's discretion, the conference report allows the President to cancel a dollar amount of budget authority provided in an appropriation law by specific amounts identified by the Congress in the statement of managers, the governing committee report, or other law. By limiting the delegation of authority, the conferees intend to preclude arguments between the Executive and Legislative Branches to ensure that the delegation is not overbroad or vague. As is described in further detail below, the conferees have sought to provide the President the ability to rescind entire dollar amounts, even if not specified as a dollar amount in the law itself, so long as the dollar amount can be clearly identified and is in an indivisible whole with which Congress has previously agreed.

The conferees note that the definition specifically excludes certain types of budget authority that are addressed in provisions in part C of title X, as well as any restriction, condition, or limitation that Congress places on the expenditure of budget authority or activities in an appropriation.
provided in the law for special grants for agriculture research. Using the authority granted under section 1021(a)(1), as defined under section 10267(7)(A)(i), the President could cancel the entire $804,573,000.

Further, again under subparagraph (A)(i), if the appropriation law does not include a specific dollar amount, but does include a specific dollar amount for the entire operation of a specific dollar amount, then the President may rescind the entire dollar amount that is required by the proviso. A fictitious example that the conferees intend in this case follows:

An appropriation law includes a provision that states that an amount of $1,400,000,000 provided for the construction of a physical fitness center, but the President could cancel the entire $1,400,000,000 provided for the physical fitness center in either the statute or documents. The President could cancel the entire $1,400,000,000, provided for the physical fitness center in either the statute or documents. The President may rescind the entire dollar amount that is required by the proviso.

As a further specific illustration, the conferees note that the General Construction Account in Public Law 104-46, the Energy and Water Development Appropriations Act, 1996, states:

``$804,573,000 to remain available until expended for the construction of a physical fitness center at the Bremer-'

In this instance, the President could cancel the entire $804,573,000 provided for the physical fitness center in either the statute or documents. The President may rescind the entire dollar amount that is required by the proviso.

In the example listed above, ``Wood Utilization Research'' appears in the report as:

``Wood Utilization Research (OR, MS, NC, NY, WY) 212,000.''

Aflatoxin (IL), Human Nutrition (AR), 473,000; Wool Research (TX, MT, WY) 212,000.''

In this case, the President may cancel the specific dollar amount provided in the appropriation law in order to ensure that those documents, they represent an agreed upon set of dollar amounts that the President may rescind in their entirety.

Subparagraph (A)(iii) has been included by the conferees to address a specific circumstance where neither the appropriation law nor the accompanying statement of managers or committee reports include any itemization of a dollar amount provided in that appropriation law. However, another law mandates that some portion of the dollar amount provided in the appropriation law be allocated to a specific program, project, or activity that can be quantified as a specific dollar amount. The President could rescind the entire dollar amount required to be allocated by the other law, since that dollar amount has been identified by the other law as the amount that must be spent. As is the case with the earlier provisions, the President could not rescind part of the dollar amount mandated by the other law. It is an all or nothing decision. Likewise, the President could not use the cancellation authority to change, alter, or modify in any way the other law.

An example is provided in subparagraph (A)(iii) is found in section 132 of Public Law 104-106, the National Defense Authorization Act for Fiscal Year 1996, Section 132 states that:``Of the amounts appropriated for Fiscal Year 1996 in the National Defense Seaport Lift, $50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities."

This example the President could "look through" the appropriation law to the authority in the authorizing law concerning the $50 million is available only for advanced submarine technology activities, and could cancel the entire $50 million.

In this case, the appropriation law contained a provision that contradicted or otherwise made the mandate in the authorization law ineffective with respect to the allocation of the National Seaport Lift, the President would not be able to use the amount in the authorization law as the basis for allocating the $50 million or the entire $3,758,000 described in the chart in the Conference Report. However, as the Congress did not break down the allocation for each state, if there were two projects, the President would not have the authority to take a portion of the $3,758,000 allocated to wood utilization research.

The conferees intend that cancellation authority only applies to whole items. If an item (or project) occurs in more than one statute, the law or the accompanying law lists an item (project) and then lists a series of states, it is the entire item that must be canceled.

To further illustrate this example, the conferees submit the following examples that corresponds to a chart contained in the same report. For illustrative purposes and the conferees are in no way commenting on the merits of any of these programs. The conferees do not intend to dictate the manner where cancellation authority may be used.

The FY 1996 Agriculture Appropriations Act (Public Law 104-88) appropriates $49,846,000 in special grants for agriculture research. The Conference Report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts of all which correspond to individual research programs. This table, for example, contains a $3,758,000 allocation for canceling authority is strictly limited.

The President has no authority in this example to cancel wood utilization research for Michigan only.

To further illustrate this example, the conferees submit the following examples that corresponds to a chart contained in the same report. For illustrative purposes and the conferees are in no way commenting on the merits of any of these programs. The conferees do not intend to dictate the manner where cancellation authority may be used.

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The President has no authority in this example to cancel wood utilization research for Michigan only.
condition, or limitation in an appropriation law or the accompanying statement of managers or governing committee report on the expenditure of budget authority or on activities involving such expenditure. The following two examples illustrate the concepts in the President cannot use the cancellation authority to alter the Congressional intent or to impose any restrictions, conditions, or limitations.

The Labor, Health and Human Services and Education and Related Agencies Appropriations Act, 1997, as amended by the Senate Appropriations Committee contained the following section:

Sec. 103. No amount of funds appropriated in this Act for fiscal year 1996 may be used to implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires that debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof permanently replaced lawfully striking workers.

The President’s cancellation authority only applies to entire dollar amounts. The above example of “fencing language” is a limitation on dollar amounts. Therefore, the President has no authority to alter or cancel this statement of Congressional policy.

If a limitation or condition on spending—“fencing language”—is not written as a separate numbered or unnumbered paragraph, but instead is written as a proviso to an appropriation, the President still has no power to cancel the proviso.

The Energy and Water Development Appropriations Act, 1996, (Public Law 104–40, Title II, Department of the Interior, General Administrative Expenses, states:

“For necessary expenses of general administration and related functions in the office of the Secretary, there shall be appropriated for offices in the five regions of the Bureau of Reclamation, $48,150,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377).

Provided, that no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.”

Using this example, the President may cancel $48,150,000 or the $1,400,000 noted, but may not cancel or alter in any way the proviso relative to other appropriated funds contained in this Act.

The conference report also allows the President to cancel the entire amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included. The conferees recognize that from time to time budget authority may be mandated to be spent on a specific program or project without a specific dollar amount being listed. However, in order to comply with this requirement, the President would have to expend appropriated funds.

EXHIBIT 2

Sec. 1021. Line item veto authority

Section 1021(a) permits the President to cancel in whole any dollar amount of discretionary or non discretionary budget spending, or limited tax benefit contained in any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

The cancellation may be made only if the President determines such cancellation will reduce the federal budget deficit and will not impair governmental functions or harm the national interest. In addition the President must make any cancellations within five days of the date of enactment of the law from which the cancellations are made, and must notify the Congress by transmittal of a special message within that time.

The conferees specifically include the requirement that a bill or joint resolution that must have been signed into law pursuant to Article I, section 7, of the Constitution of the United States. This requirement clarifies that the cancellation authority only becomes effective after the President has exercised the constitutional authority to enact legislation in its entirety. This requirement also ensures that the President affirmatively demonstrates support for the underlying legislation from which specific cancellations are then permitted.

The term “cancel” was specifically chosen, and is carefully defined in section 1026. The conferees intend that the President may use the cancellation authority to surgically terminate federal budget obligations. The cancellation authority is specifically limited to any entire dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law. The President may only terminate the obligation of the Federal Government to spend certain sums, money appropriated on a mandatory payment, or the obligation to forego the collection of revenue otherwise due to the Federal Government in the absence of a limit.

Likewise, the terms “dollar amount of discretionary budget authority,” “item of new direct spending,” and “limited tax benefit” may not be canceled by the President, unless they have been specifically or otherwise ordered by the President to make clear that the President may only cancel the entire dollar amount, the specific legal obligation, or the entire function.

“Fencing language” may not be canceled by the President under this authority. This means that the President cannot use this authority to alter a specific aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

The conferees intend that, even once the federal obligation to expend a dollar amount or provide a benefit is canceled, all other obligations under the provisions of the underlying law will remain in effect. If the President desires a broader result, then the President must either make or execute a law that may permit the President’s constitutional power to veto the legislation in its entirety.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President’s use of the cancellation authority. Any credit for money not spent, or for revenue foregone, is dedicated to deficit reduction through the operation of the lockbox mechanism. This ensures that the President does not simply cancel a particular dollar amount of discretionary or non discretionary item of new direct spending, or limited tax benefit in order to increase spending in other areas.

Section 1021(b) requires the President to consider legislative history and information referenced in law in identifying cancellations. It also requires that the President use the definitions in section 1026, and provides that the President use any sources specified in the law or the best available information.

Section 1021(c) states that the President’s cancellation authority does not apply to a disapproval bill, as defined in section 1026. The provision is intended to prevent an endless loop of cancellations.

Mr. BYRD. Mr. President, will the Senator yield an infinite moment?

Mr. STEVENS. Yes.

Mr. BYRD. Mr. President, I take this occasion to congratulate the distinguished Senator from Alaska [Mr. Stevens], and the other Members of the Senate who were conferees.

As I sat and listened to him as he has outlined the changes that were brought within the bill during the meeting of the conferees, I think they brought about several improvements over the House position. I thank them for that.

Mr. STEVENS. Mr. President, I am honored by those comments.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I thank the Senator from Alaska for his gracious remarks, and all of those involved in this, including the occupant of the chair, the Senator from Mississippi.

There is very little doubt that the Senator from Alaska had the most difficult time with this legislation. That is understandable given the fact that he will play a key and vital role in the upcoming appropriations process which affects us. We are very grateful, not only for his gracious remarks, but for his very cooperative participation in this process.

Mr. President, in behalf of this side, I yield 10 minutes to the Senator from Texas for an important role from time to time during our conference bringing a degree of insight, particularly helping us understand the difference between enhanced rescissions and real line-item vetoes.

Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, I believe this bill represents a significant break with the past. I think it does in a very real sense represent the changing of the guard. Might I say that I think it is long overdue.

The last time we balanced the Federal budget was in 1969 when Richard Nixon was President, and it happened only because of a big tax increase that occurred in 1968—an income surtax. It lasted only for 1 year, and then it was gone. The last time we balanced the budget 2 years in a row where the budget was balanced by fiscal restraint by doing what every family and every business in America has to do every year was in the middle of the 1950’s when Dwight David Eisenhower was President of the United States.

In other words, we are here today changing the fundamental powers of the Presidency as they relate to the Congress and altering our system of the distribution of that power because for 40 years we have not been able or willing to say “no.” And very importantly we have not said “no,” because we have said “yes” to virtually any organized special interest group with a letterhead, that has meant that families
have had to say "no" on a constant basis. The problem is we have said "yes" to spending money when "yes" was the wrong answer, forcing families to say "no" to investing in their future and the future of this country, when "no" was the answer. We are here today to try to change that.

What does the line-item veto do, and what does it not do? The line-item veto allows the President to go inside an appropriations bill and to eliminate a program, a project, or an activity. He does not lose the ability to apply it. He can either say "yes" or "no" to the whole thing and strike it out, and then alter the budget total at the top of the page.

This will allow the President to exercise leadership in controlling spending and to impose priorities. But, if the Congress does not agree and if there is strong disagreement, the President can be overridden. But what it does, no doubt about it —for the distinguished Senator from West Virginia is right—it changes the balance of power between the Congress and the President in one fundamental way: It gives the President enhanced power to say "no" to spending. It does not give him the ability to tax money. It does not give him the ability to change priorities by partially altering spending figures. It enhances his ability to say "no."

It seems to me, Mr. President, after 40 years of living proof every day that our Government cannot say "no" when "no" is clearly the right answer, the time has come to change the system. This is a fundamental reform, there is no doubt about it.

If you had a President who was honest-to-good-will ing to get out a pen and to veto, he could change America. And he could change it very, very quickly. Let us hope that the Lord will give us such a person.

What is the problem with which we are trying to deal? The problem is not just this abstract idea of deficits. The problem is that in the mid-1960s, we fundamentally changed America without America ever knowing it, without an election ever being held on this subject, and maybe without Members of Congress knowing it.

What happened is that prior to 1965, in this whole century, excluding the years of the Great Depression, our economy had performed very well. We had experienced an economic growth rate of almost 3.5 percent. From 1950 to 1965, our economy grew at over 4 percent a year. What that meant was new jobs, new growth, new opportunity. It created a situation throughout the whole of the 20th century, with the exception of 4 years during the Great Depression, where in almost every family in America parents did better than their parents, and they could be almost certain that their children were going to do better than they.

Beginning in 1965, we traded that in for a Government growing at an average of 9 percent each and every year since. What has happened is this year the economy is growing at 17 percent. The average family's take-home, after-tax pay today is lower than it was in 1992. For the whole decade of the 1970s, the average working American family was worse off each year than they were at the beginning because the economy did not perform, because we spent the seed corn of our economy here in Congress, and the President in signing appropriations bills had no ability to go inside those bills and strike items.

So what we are doing today is trying to change a system that is broken. There are clearly people who love the system. I believe that God was, what Congress ought to have this ability to fill up bills with little add-ons that the President would like to veto but cannot veto without vetoing the whole bill. And I think after 40 years of failure, after 40 years of mortgaging the future of the country, after 40 years of lowering the potential living standard of our people, we have an opportunity if we would change the way Government does its business to guarantee that our grandchildren will be twice as well off as they will be if you continue business as usual.

That is the ability to affect the lives of everybody in this country and everybody on this planet. It is the ability to give people the opportunity to escape poverty and fulfill their dreams. That cannot happen when Government is borrowing 50 cents out of every dollar. So we are here today to change it. This is going to be a fundamental, sweeping change in Government. My only disappointment is that it is not permanent. This is grandfathered, and what it will mean is that if we do have a President who actually uses it, my gut says —and I do not recall it once this expires —he has hoped this would be permanent law, but this is a very, very important bill. I commend everybody who has been involved in it. Let me conclude by just thanking some people individually.

First of all, I thank Ted Stevens, who had very real hesitation about this bill. I thank Pete Domenici. Both of these men had real reservations when we started. This has meant a compromise for them, and I think quite frankly, we have a better bill right now than we did when we started this process. I think they are largely responsible for it. But only because of their support will this bill become the law of the land.

I thank Dan Coats and John McCain for their leadership. This has been a battle which has really raged for 8 years. Many people have despaired of it ever happening, but I have seen it because we had people who cared strongly about it. I think it reveals the basic lesson of democracy, and that is intensity counts. If you have people who care very strongly about something and they do not give up, ultimately they succeed.

I also thank the President, our distinguished assistant majority leader, for his good counsel in bringing people together and helping to push this matter to a final conclusion.

It is interesting in that I think this is an old issue which has been debated a long time and as a result there is not the clamor which normally would surround a bill that is as important and momentous as this bill is, and that is a disappointment I am sure both to those of us who are for it and those who are against it in terms of its profound impact on America. There are very few times we have had a President or 5 Congresses that have a larger potential impact than the passage of this bill.

I congratulate everybody who has been involved. I believe we are not only making history today, but we are making good history. That is something which does not happen very often. This is one more tool the President has, if the President wants to do something about the deficit. If we have a President who really wants to do it, all that President has to do is get one-third of the people in one party in Congress to sharpen up his pencil, and he is in business. I believe it is going to take strong leadership.

I wish to conclude by remembering the words of Ronald Reagan when he asked for this power and said "Give me the line-item veto and let me take the heat." I was always disappointed we did not do that, but we are going to give whoever is President in January this power. We will see if they can take the heat.

I thank the Chair and I yield the floor.

Mr. Byrd addressed the Chair. The PRESIDING OFFICER. Who seeks recognition? The Senator from West Virginia.

Mr. Byrd. Mr. President, I shall quote Lord Byron:

A thousand years scarce serve to form a state; an hour may lay it in the dust.

Mr. President, let me explain my motion now for the benefit of Senators on both sides.

Mr. President, in offering this motion to recommit, I am, I hope, providing one last opportunity for the Senate to come to grips with what we are about to do. It is my desire that each one of us, before we cast our vote on the conference agreement to S. 4, have the chance to reevaluate our position, to reexamine the damaging consequences that will necessarily extend from this enhanced recission proposal, and to vote, instead, for a more sensible approach than that offered in S. 4, as amended.

In essence, my motion to recommit would supplant the provisions currently contained in the conference agreement with those contained in S. 14, as originally introduced by Senators Domenici, Exon, Craig, Bradley, Cohen, Dole, Davis, and Campbell on April 4, 1995. That measure was, I believe, a workable proposal that would give the President broad and uncomplicated authority to propose the
rescission or repeal of not only appropriated funds, but, also, new direct spending and targeted tax benefits.

Consequently, my proposal will allow any President to rescind any of these budget items under an expedited process that the President could initiate by delivering a special message to Congress proposing to cancel any of the budget items previously mentioned. The House and Senate would then be required to take up the President's proposed rescissions under expedited procedures which would allow a vote on any of his proposed rescissions. The procedure would work as follows:

The President would have 20 calendar days after the date of enactment of each covered measure to transmit a special message to Congress proposing to cancel any of the budget items previously mentioned. The House and Senate would then be required to take up the President's proposed rescissions under expedited procedures which would ensure that a vote on final passage of the President's proposed rescissions shall be taken in the Senate and House of Representatives on or before the close of the tenth day of session of that House after the date of the introduction of that bill in the House. Furthermore, procedures are contained in the measure to ensure that such measures are introduced no later than the third day of session of each House after receipt of a special message from the President.

During consideration of the rescission bill in either House, any member may move to strike any proposed cancellation of a budget item. I might note parenthetically that this represents a change from S. 14 as introduced, in that S. 14 would have required a member of the House to gather the signatures of 49 other members in order to offer an amendment to a rescission bill on the Floor and in the Senate would have required a Senator to collect an additional 11 signatures in order to be able to offer an amendment to strike a proposed rescission from a bill. I do not agree that members of the House and Senate should be prohibited from offering such amendments as they wish without the necessity of gathering signatures from other members.

Under my proposal, debate in the Senate on a rescission bill and all debatable motions and appeals in connection therewith shall not exceed 10 hours. A motion in the Senate to further limit debate on a rescission bill is not debatable. A motion to recommit a bill is not in order. Debate in the House of Representatives or the Senate on any question on any resolution or any rescission bill shall be limited to not more than two hours, motions to further limit debate will be nondebatable, and motions to recommit the conference report will not be in order.

Finally, my proposal contains an ironclad lockbox provision to ensure that any monies saved through these rescissions are, indeed, used for deficit reduction. Under this proposal, the President and Congress must each take action on the disbursement of the spending limits contained in section 601 of the Congressional Budget Act, the committee allocations under section 602, and the balances for the budget under section 252 of the Balanced Budget and Emergency Deficit Control Act.

By adopting this proposal, I believe that the Senate will then have passed a measure that effectively amends the Balanced Budget and Emergency Deficit Control Act, and that any President, at the same time maintaining the constitutional separation of powers by protecting congressional control of the purse strings from an unchecked executive.

Mr. President, I remind my colleagues that it was the considered judgment of the distinguished chairman of the Budget Committee, working in conjunction with the ranking member of that committee, Mr. Exon, that the expedited rescission process contained in S. 14, as originally introduced, was the most appropriate approach to this issue. Based on their expertise—expertise gained through many years of study of the budget process—the provisions contained in this measure will give us a workable process. Consequently, my motion, if adopted, would force the Congress to vote, in an expedited fashion, on the President's rescission proposals. No longer would Congress be in a position to veto the recommendations of the President. We would be mandated, under the language I am proposing to have substituted, to consider the President's request, and to do so in a timely manner.

Furthermore, under the terms of S. 14, as introduced, this newly crafted expedited rescission process would extend not only to appropriated funds, but, also, to the vast amounts of revenues lost each year through the use of tax expenditures. As with entitlement programs, tax expenditures cost the U.S. Treasury billions of dollars each year; nearly $500 billion in this fiscal year alone. And, again, like entitlements, they receive little or no scrutiny once enacted into law. As the increase in taxes, they increase the deficit, just like spending on mandatory programs, tax expenditures routinely escape any meaningful fiscal control or oversight. Indeed, by masquerading as a tax expenditure, a program or activity that could not pass congressional muster could be indirectly funded and survive for years.

Yet, the conference agreement on S. 4 effectively puts this entire area of Federal expenditures out of the reach of the President. By limiting the President's rescission authority to only those tax expenditures that, by definition, benefit 100 or fewer taxpayers, S. 4 absurdly restricts the ability of the President to get at this type of backdoor spending.

How absurd is this? Imagine limiting the scope of the President's rescission authority to those appropriations that impacted 100 or fewer beneficiaries. The impact of such a procedure would be to focus any President on how to find the least number of beneficiaries to fund. The answer that would befall any Senator who stood up here and proposed that kind of rescission process. What would the proponents of S. 4 think of the efficacy of their legislation with that type of restriction in place on appropriated funds?

Mr. President, the concept of numerical definitions on tax expenditures was rejected in the Senate because we all agreed that, any tax that in any way increases the deficit is immediate. It is not put off until next year. It is not delayed until 1997, but certainly no less.

Mr. President, the concept of numerical definitions on tax expenditures was rejected in the Senate because we all agreed that, any tax that increases the deficit is immediate. It is not put off until next year. It is not delayed until 1997, but certainly no less.

Mr. President, I find it ironic that the proponents of S. 4—who seem to be claiming that their so-called line-item veto is the only version that will effectively cut wasteful spending—are the very same people who seem to be afraid to give the President of the United States a similar method of cutting wasteful tax breaks. Why should the President be given the power to veto spending for school lunches, or highway construction, or drug programs, and not be given the power to veto the tax deduction claimed by businessmen for a three-martini lunch? Whether wasteful spending is in a program funded through an appropriation or through a tax break, it is still wasteful spending.

The Domenici-Exon expedited rescission bill, which I am offering as a substitute to the current conference agreement, gives the President real authority to go after wasteful tax breaks. Under the substitute, every tax break would get the same presidential scrutiny as every program funded through the appropriations process. No more, but certainly no less.

Finally, but not insignificantly, the President, is the issue of timing. The rescission process that I am proposing is immediate. It is not put off until next year. It is not delayed until 1997, as it is under the conference agreement. Under the substitute, the President would have the opportunity to exercise his newfound rescission powers right away, this year, on any appropriations, or entitlements, or tax expenditures enacted by this Congress. But, under the conference agreement, the President—in this case President Clinton—is not allowed to affect the fiscal year 1997 appropriations. Apparently, President Clinton is not to be
Mr. President, my position on en-
harmed rescission is well known to my
colleagues. I believe that passage of
this conference report, in its present
form, would be a truly monumental mist-
ake that would not only provide the con-
stitutional balance of powers while
contributing very little toward bal-
cancing the federal budget. I have been,
and continue to be, unalterably op-
posed to granting any President the
power to rescind portions of spending
measures under conditions which
would require a two-thirds vote of both
Houses to override such rescissions.

But if we are to have legislation that
amends the current rescission process,
I hope that we will at least have the
presence of mind to ensure that we do
not give away, in wholesale fashion,
that which the constitutional Framers
so wisely placed in this branch of gov-
ernment. Accordingly, I urge my col-
leagues to adopt my motion to recom-
mit.

The PRESIDING OFFICER (Mr.
McCain). Who seeks recognition?
Mr. BYRD. Mr. President, I ask the
time be charged against my time on
the amendment.

The PRESIDING OFFICER. The
time will be so charged. The Senator
from Indiana is recognized.

Mr. COATS. Mr. President, I, first of
all, want to take this opportunity to
express my respect for the Senator
from West Virginia. We clearly are on
different sides of this issue. He has
been an articulate and zealous protec-
tor of the prerogatives and rights of
this institution, and he has articulated
those in a very compelling manner.

I also respect his unswerving al-
legiance and dedication to that propo-
sition and know that it is very, very
important, and it has been over the 8
years of debate on line-item veto, a
great history lesson for this Senator.

Mr. BYRD. Mr. President, I thank
the distinguished Senator for his over-
ly generous and charitable remarks.

Mr. COATS. Mr. President, it is my
understanding that it has been cleared
that at least have the presence of mind
to ensure that we do not give away,
in wholesale fashion, that which the
constitutional Framers so wisely placed
in this branch of government. Accord-
ingly, I urge my colleagues to adopt
my motion to recommit.

Mr. BYRD. Mr. President, I want to
make sure the minority leader and Senator
McCain get an opportunity to discuss
the issue.

Mr. COATS. We have no objection to
having Senator Domenici recognized
in order to make a motion to table the
pending motion to recommit.

Mr. BYRD. That is my understand-
ing. I have no objection. I ask the
request be amended to provide that Mr.
McCain be recognized at 5 o’clock
to speak in opposition to the conference
report and that some time be charged
against my time on the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. COATS. We have no objection to
that, Mr. President. Therefore, I ask
unanimous consent that at the hour of
5:45 this evening, Senator Domenici be
recognized in order to make a motion
to table the pending motion to recom-
mitt, and, prior to that, at 5 p.m. this
evening, Senator Moynihan of New
York be recognized to speak in opposi-
tion—in favor of the amendment to recommit
and in opposition to the bill on the
floor, the time to be charged to the
Senator from West Virginia.

The PRESIDING OFFICER. Without
objection, it is so ordered.

Mr. LOTT. Mr. President, I would
just alert our fellow Senators that a
rollcall vote will now occur at 5:45 p.m.
today; that there will still be, after
that vote, time remaining on this de-
bate. I am not sure how much of that
time will be used. I do know there are
some requests for time, so Senators
should also expect that there will be
additional debate and a vote on final
passage on this line-item veto con-
ference report sometime this evening.

The PRESIDING OFFICER. The Sen-
ator from Mississippi.

Mr. LOTT. Mr. President, I would
like to request some time on this side.
I think 5 minutes will be adequate.
Mr. President.

The PRESIDING OFFICER. I am
happy to yield to the Senator from
Mississippi whatever time he desires.

The PRESIDING OFFICER. The Sen-
ator from Mississippi is recognized.

Mr. LOTT. Mr. President, I want to
to say this afternoon I am extremely
proud of the U.S. Senate and of the
Congress, because I believe before this
week is out we will have passed this al-
ready described momentous legislation
into law. It is not an easy thing to do.
It is very difficult.

I remember, soon after I came to the
Senate, we had debate on the line-item
veto. I think probably the Senator
from Indiana and the Senator from Ari-
izona, Senator McCain, were involved in
that. I expect that will be a part of the
comments, and I had a couple of Senators come over
and explain to me that might not be a good
idea, to support that. They caused me
to think a lot about it.

But here, in effect, we are taking ac-
dition to everything we have to be able
to veto in whole or in part. Quite
frankly, we were a little bit surprised—I know I was—at what
could mean. So we worked to try to
clarify what that “in part” meant.

It does include things other than just
appropriations. It does include the so-
called tax expenditure. But that provi-
sion is carefully drafted, it is carefully
defined, and I think we came up with
the right blend, so that also can be
considered by the President when he
reviews legislation we send to him.

Mr. President, I would like to request
some time on this side. We have
worked together. Even the Senator
from West Virginia, who so op-
poses this legislation, has been very
much a gentleman in the way he has
handled the debate, how he is address-
ing this issue today, the motion to re-
commit he has offered, and the time
agreements he has entered into. So a
lot of people deserve credit.

I think it is a carefully crafted piece
of legislation. We went into the detail
of what would it mean for the Presi-
dent, and we were able to do that in
part. Quite frankly, we were a little bit
surprised—I know I was—at what
that could mean. So we worked to try to
clarify what that “in part” meant.

I think we have improved it. We have
made it more acceptable to more Senators or
Congressmen, Republicans and Demo-
crats. So we are going to go forward
with it, and we are going to do it at a
time when the majority of the Con-
gle will not be part of the President
in the White House. We are saying
that in spite of that—maybe because of
it—we want him to have that addi-
tional authority.

For 15 years, we have been talking
about the line-item veto, maybe
longer. But I personally have been
familiar with it for those years. As a
Member of the House, I was for the
line-item veto. I remember speaking when President Carter was
in the White House, and I continued to be for it during the Reagan administra-
tion, the Bush administration, and I
continue to be for it.

We are showing that we can rise above politics, if you will—part-
nisan politics—and take an action be-
cause we believe it will be the right
to do for our country, we believe it
will be the right thing to do in trying
to control spending. It may not work like we hope it will, it may
run into difficulties, but I believe it is
the right thing to do, and I do support
it.

I think that it will be used responsi-
bly by the Presidents of the United
States, this one or his successors. I
think most Governors use it respon-
sibly in their exercise of the line-item
veto, and I think the Presidents will.

But if they do not, we will have an
other opportunity to talk about it.

I do also want to join in commending
the Senator from Arizona, Senator
McCain, for his dogged support of this
idea, and also the Senator from Indi-
ana. They have worked together. They
worked against the odds and never gave
up, even though it looked pretty dismal just a month or
so ago.

I have to express my appreciation for
Senator Stevens and Senator Domenici.
They were aggressive, they worked
against the odds and never gave up, even though it
looked pretty dismal just a month or
so ago.

For 15 years, we have been talking
about the line-item veto. I think probably the Senator
from Indiana and the Senator from Ari-
izona, Senator McCain, were involved in
that. I expect that will be a part of the
comments, and I had a couple of Senators come over
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Mr. President, I want to make sure the minority
leader and Senator Byrd—if that is his
understanding.

Mr. BYRD. That is my understand-
ing. I have no objection. I ask the
request be amended to provide that Mr.
McCain be recognized at 5 o’clock
to speak in opposition to the conference
report and that some time be charged
against my time on the bill.
Mr. President, while we were going to do. I have always felt the President should have this authority. I am in the Congress. I guess I should be jealous of ceding authority to the President. I really do feel the President should have this authority. We can only have one Commander in Chief at a time. He is the ultimate authority. He should have the ability to go inside a bill and knock out things that he feels should be separately voted upon, which should be highlighted for the public, for the Congress, and we should then vote up or down on. I, for instance, very much favor the version which the Senator from West Virginia has offered, which will be voted upon later this afternoon. So-called expedited rescission process, it seems to me, is constitutional and is something which we can in good conscience, at least I can in good conscience, support.

The President Officer and many others in this body obviously feel that the version which is currently before us is constitutional or do not think they would have been proposing it. There is a difference, but it is a difference which is held in good faith. I must say, I greatly admire the Senator from Arizona and the Senator from Indiana and others for the manner in which they have proceeded relative to this issue.

Mr. President, as I said, I support the version of the line-item veto which is known as expedited rescission. That version would ensure that any item of spending that the Congress enact that the President feels is inappropriate.

The problem with the current bill is that it fails the fundamental test of being consistent with the requirements of the Constitution that any repeal or amendment to a law be done in the same way that the law itself was enacted. The Constitution establishes the method by which laws are enacted, by which laws are amended, and by which laws are repealed. It is fundamental constitutional law. A bedrock law that says that a bill becomes law when it is passed by both Houses of Congress and signed by the President, or if the bill is vetoed by the President, when that veto is overridden by a two-thirds vote in each House.

The bill before us purports to create a third way by which laws can be made, a way not recognized in the Constitution. And this third way, this new way, is by giving the President the unilateral power to repeal a law or part of a law without any action by the Congress.

The Founding Fathers made a conscious decision to give the power of the purse to the Congress and not to the President. This power of the purse serves an important check on the power of the Presidency.

I, for instance, very much favor the version which the Senator from West Virginia has offered, which will be voted upon later this afternoon. That was because of that, the fear of unifying executive and legislative powers in the same person, that article I of the Constitution gives Congress, and not the President, the power of the purse.

Article I, section 1, states without qualification—and the first word in this quote is the critical one—

"There can be no liberty where the legislative and executive powers are united in the same person."

He quoted Montesquieu for that point. It was because of that, the fear of uniting executive and legislative powers in the same person, that article I of the Constitution gives Congress, and not the President, the power of the purse.

Article I, section 8 adds: The Congress shall have Power To lay and collect Taxes... to pay the debts and provide for the common Defense and general Welfare of the United States;... [and] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Article I, section 9 affirms that: No money shall be drawn from the Treasury but in Consequence of Appropriations made by law.

It was Madison, in Federalist No. 58, who explained that the power of the purse was granted to Congress because
it represents the “most complete and effectual weapon with which any Constitu-
tion can arm the immediate representa-
tives of the people for obtaining a redress of every grievance and for carrying into effect every just and sal-
atory measure.”

Congress cannot change the system of checks and balances established by the Founding Fathers. We cannot do it, and we should not try. But this conference in the mechanism which it chooses, attempts to change the sys-
tem of checks and balances which are embedded—and may I use the word “enshrined”—in the Constitution of the United States.

The enhanced rescission power that is granted to the President by this bill attempts to alter our constitutional system by giving the President unilateral authority to control spending and to substitute his personal budget priorities for the priorities that have been passed by the Congress and signed into law. This bill would give the President the unilateral power to repeal a statute or part of a statute without any action at all by the legislative branch.

That is the heart of the matter. This bill in front of us would give to the President the unilateral power to repeal a statute or part of a statute, the law of the land, without any action by the legislative branch. That is something that we cannot do.

The Supreme Court said as recently as in the Chadha case, that it is beyond Congress’ power to alter the carefully defined limits and the power of the branches of Government. This is what the Supreme Court said in Chadha:

The bicameral requirement, the Presentment Clause, the President’s veto, and Congress’ power to override a veto were intended to erect enduring checks on each Branch and to protect the people from the improvident exercise of power by mandating certain pre-
scribed steps. To preserve those checks and maintain the separation of powers, the care-
fully defined limits on the power of each Branch must not be eroded.

The Chadha court went on to say:

There is no provision in the Constitution or decisions of this Court for the proposition that the cumbrousness and delays often encountered in complying with explicit con-
stitutional standards may be avoided, either by the Congress or by the President. . . .

With all the obvious flaws of delay, undidi-

ness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

The veto or the repeal or the can-
celation unilaterally, of an existing law by the President is subject to the same constitutional restraints.

The Chadha court explicitly stated that “[a]mendment and repeal of statutes, no less than en-
actment, must conform with Article I” of the Con-
stitution.

That is an explicit statement of Chadha by the Chadha court. We can-
not change that unless we adopt a consti-
tutional amendment and send it to the States.

The Chadha court has told us what courts have told us throughout our his-
tory, what the Constitution has told us. It says explicitly, “[a]mendment and repeal of statutes, no less than en-
actment, must conform with Article I” of the Constitution.

What this bill says is, “Well, we will try to create a new way. We will let the President decide within 5 days after a law becomes law that he wants to cancel a part of that law.” Unless the Congress acts to override him, the President’s unilateral cancellation ef-
fectively amends the law of the land, by law. We cannot do that. We should not do that.

The Chadha court explained why it reached the conclusion that it did. It wrote that during the Convention of 1787 the application of the President’s veto to repeals of statutes was ad-
dressed. It was very explicitly ad-
dressed during the Constitutional Con-
vention. The Chadha court went through the Convention. The issue was the application of the President’s veto to repeals of statutes. The Chadha court concluded: There is no provision allowing Congress to repeal or amend laws by other than legislative means, pursuant to article I.”

Now, Mr. President. The conference report acknowledges what I think is obvious: That when the President signs the appropriations bill—this approach would allow him to cancel within 5 days that appropriations bill—upon his signature that becomes the law of the land. The conference report 1021 says that notwithstanding the pro-
vision of parts A and B subject to provisions of this part, “the President may with respect to any bill or joint resolution that has been signed into law, pursuant to article I, section 7 of the Constitution, may cancel in whole or in part,” and it goes on to talk about what the President can cancel.

We are only talking here about bills which have become the law of the land. Those are pretty important words. In this government, Congress does not allow Presidents to pick and choose which laws they abide by and which ones they do not. I cannot think of any other places where we say a law could be canceled by a President acting unilat-
erally; yet this bill says that a law—
and that has become enacted, signed by the President—can be canceled in whole or in part by the President, act-
ing alone.

Of course, the bill gives us the oppor-
tunity to override that cancellation with new legislation. That is not the point. That is not what article I of the Constitution provides. Article I of the Constitution as interpreted by Su-
preme Court opinion after Supreme Court opinion as recently as Chadha says the repeal, the amendment, the modification of a law must be done in the same way that a law is enacted. This bill is a deviation from that. This bill says “Well, we will create another way. We will create a new way. You do not have to enact an amendment. You do not have to amend the law. You do not have to repeal the law the way the Constitution provides. We’re going to say that the President of the United States, acting alone, is able to cancel a law of the United States.”

Now, Mr. President, the argument has been made that the bill just re-
stores to the President the authority that he exercised under the Impoundment and Control Act in 1974. That is plainly wrong. No President has ever exercised the kind of unrestrained right to override con-
gressional budget decisions that this bill would attempt to create. The As-
sistant Attorney General, Charles Coo-
per, in the Reagan administration, stated in a 1988 legal opinion, the fol-
loving:

To the extent that the commentators are suggesting that the President has inherent constitutional power to impound funds, the weight of authority is against such a broad power. This office has long held that the ex-
istence of such a broad power is supported by neither reason nor precedent. Virtually all commentators have reached the same con-
clusion without reference to their views as to the scope of executive power.

I note that same Assistant Attorney General, Charles Cooper, in the Reagan administration, cited no less an au-
thority than Chief Justice Rehnquist, writing in his position as Assistant At-
torney General in the Nixon administra-
tion, that the proposition that a Presidential power not to spend money “is supported by neither reason nor precedent.”

The Constitution does not authorize that the President of a law. The Constitu-
tion does not permit the Presi-
dent to repeal a law, to suspend a law, to ignore a law, unless he chooses to veto the law itself. He cannot cancel laws. This is just another word for modifying it or ignoring it or vetoing it.

George Washington said 200 years ago, “From the nature of the Constitu-
tion I must approve all the parts of a bill or reject it in toto.”

The Constitution does not allow Chief Justice William Howard Taft explained, “The President has no power to veto parts of the bill and allow the rest to become a law. He must accept it or reject it, and even his rejection of it is not final un-
less he can find more than one-third of one of the Houses to sustain him in his veto.”

Congress cannot give the President that authority or even greater author-
ity simply by changing the labels and calling a repeal or an amendment the “cancellation” of a law. It is not the labels that count. It is the substance of what we are doing or purporting to do. What we are purporting to do in this bill is to give the President of the Unit-
est States a right which the Constitution denies him, and that is the right to cancel or veto or amend or modify or ignore the law of the United States.

If it is unconstitutional for Congress to give the President the particular power under one label, it is not sud-
denly constitutional merely because we change the label. We cannot acknowl-
edge that the President does not have
the right to "modify" or "repeal" a law under the Constitution, but at the same time maintain that he can "cancel" a law. A veto is no less a veto and a repeal is no less a repeal because we call it suspension or cancellation.

As Prof. Thomas Sargentich of the Washington College of Law at American University explained in a letter to me, regarding an earlier version of this bill which took the same approach:

S. 4 presents the question whether, given that the President cannot unilaterally write or delete some portion of a bill at the time of its enactment, the President nevertheless can sign the bill and decide thereafter to rescind budget authority under the law. Proponents of S. 4 seek to rely on a verbal contrast between "rescission" of budget authority and "repeal" or "veto" of all or part of a statute. The notion is that a 'rescission' is simply the execution of the law pursuant to a broad delegation.

The problem with this suggestion is that it seems to exalt verbal form over legal substance. **A repeal of all or part of a statute after it becomes effective can only be accomplished by new legislation enacted with adherents to both chambers and a presidential signature.** Using words like "suspend" or " rescind" or any other somewhat muted verb does not alter the underlying legal situation.

Similarly, Louis Fisher of the Congressional Research Service concluded in 1992 testimony before the House Rules Committee that a statute purporting to give the President unilateral power to rescind appropriations would be unconstitutional. Dr. Fisher stated:

Under what theory of government can Congress delegate to the President the power to rescind laws without further legislative involvement? Congress seeks to preclude the President substantial authorities to "make law," but this consists of discretion within the bounds of statutory law, not the power to promulgate law. * * * The contemporary case law sustains the constitutionality of broad delegations, I would argue that the rescission of previously approved appropriations follows the regular legislative process: action by both Houses on a bill that is presented to the President.

And, a 1987 Note in the Yale Law Journal concludes unequivocally that—

A transfer of authority to the President [through an enhanced rescission bill] to decide which parts of appropriations bills to enforce, would be a delegation of Congress' spending power. Such a delegation, however, would be unconstitutional. * * * Congress cannot constitutionally seek to solve its budget problems by attempting to divest itself of constitutional legislative power.

Mr. President, I am confident that the courts will strike this provision down as an improper attempt by Congress to overide the explicit standards, in article I of the Constitution, for the enactment and repeal of legislation. However, I do not believe that we should rely upon the courts to strike down unconstitutional statutes; we have an independent duty to scrutinize our actions and reject any proposal that would violate the strictures of the Constitution.

It has been argued that the end of hope for deficit reduction justifies the means.

The line-item veto has been cast as a mechanism to cut wasteful spending by Congress.

The premise has been weakened by the fact that the Presidents' budgets during most of the Reagan-Bush years had greater deficits than the budgets adopted by Congress.

Also numerous studies show that line-item veto has not been used to hold down state spending or deficits, but rather has been used by state governors to pursue their own priorities...[A] comprehensive survey of line-item veto legislation in the states showed that governors were likely to use the item veto for partisan purposes... but unlikely to use the veto as an instrument of fiscal restraint.

The same is likely to be true at the Federal level. For the President to have a veto could push his agenda in Congress by threatening to use a line-item veto or enhanced rescission authority to kill projects in the State or district of a Member who opposed his proposals. Such threats could be used to advance policies in area—such as health care and welfare reform—that are completely unrelated to Federal spending. They could even be used to persuade
Congress to increase Federal funding for projects favored by the President. But even if one believes line-item veto will have a major impact on the deficit, then do it constitutionally. That is what the Byrd motion is all about. Let us do it by trying to give the President a part of the power over the purse, a power the constitution reserves to the Congress. We should not do it by trying to give the President the right to repeal a law or a portion of a law without congressional involvement.

The sponsors of the bill have taken the position that Presidents are unlikely to abuse these new powers. That view is not only naive, it is also inconsistent with the view of our Founding Fathers and the purpose of our constitutional system of checks and balances. As James Madison explained in "Federalist Number 51":

[The great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives, to resist the encroachments of the others. If men were angels, no government would be necessary. If angels were to govern men, there would be no need for government. For regardless of whether Congress yields budgetary authority or the President usurps it, the threat to our constitutional order is the same. In the same governmental system, the legislature does and must have plenary power over the budget. The power of the purse is the strength of the Congress; take that away, and all else will fall. Is Congress' management of the budget inefficient? Surely it is; the workings of democratic institutions always are. Is it cumbersome? Of course, the majority of S&O politicians would never agree on anything is a difficult task. But if we wish to live in a pluralistic and free society, we will strive to ensure that Congress retains exclusive control over the national's purse. Only in that event will the delicate balance of our constitutional structure be preserved.]

Mr. President, this bill is an unwise attempt to take away Congress' power over the purse and undo the system of checks and balances created by our Founding Fathers. It is at odds with the requirements of the Constitution. I urge my colleagues to reject it and adopt a different version called expedited rescission.

Mr. MCCAIN. Mr. President, we were sort of going back and forth from one side to the other. Since Senator LEVIN just went, Senator ROTH was going to go along with the understanding Senator DASCHLE will go. I believe that is the normal custom.

Mr. BUMPERS. Mr. President, I wonder if the floor manager would be willing to enter into a unanimous-consent agreement specifically naming the order of those who were here on the floor so others will know approximately when to come to the floor.

Mr. MCCAIN. I note the presence of the Senator from West Virginia. I hope that is agreed on with him.

Mr. BUMPERS. I defer to our leader there, Senator BYRD, with how to approach this.

Mr. BYRD. Under the circumstances, I would be willing to do that. I am ordinarily not willing to stray away from what the rules require, but I would be happy to do that on this occasion.

Mr. BUMPERS. I suggest that Senator ROTH be recognized next, following which Senator DASCHLE be recognized.

Mr. DASCHLE. Well, Senator BUMPERS has been here longer than I have.

Mr. BUMPERS. I do not mind yielding to the leader. He has a much busier schedule than I do. Who would be next on that side?

Mr. MCCAIN. I am not sure at this time whether it would be Senator NICHOLS or Senator KYL.

Mr. BUMPERS. And then it would come back to me?

Mr. MCCAIN. Yes, then the Senator from Arkansas.

Mr. BUMPERS. Does the Senator from Maryland wish to speak on this issue?

Mr. SARBAHIDES. How long do we expect people to speak if we set up this procedure?

Mr. MCCAIN. I say to my friend from Maryland that usually about this time of the afternoon and evening we find there are a lot of speakers.

The PRESIDENT pro Tempore. The Chair notes that Senator MOYNIHAN is to be recognized at 5 o'clock.

Mr. MCCAIN. Yes, by previous unanimous consent, and there is a vote under a previous unanimous consent at 5:45.

Mr. BUMPERS. Is a certain time allotted to Senator MOYNIHAN?

Mr. MCCAIN. Yes, it is 5 minutes. I believe.

Mr. MCCAIN. I ask the Chair, how much time does Senator MOYNIHAN have? Is there a certain amount of time?

The PRESIDENT pro Tempore. No time is allotted.

Mr. BYRD. Mr. President, I yield 30 minutes to Mr. MOYNIHAN.

Mr. MCCAIN. At 5:45 is it a vote to table the Byrd motion to recommit, under a previous agreement?

Mr. BYRD. So, between now and 5, there is time for several Senators.

Mr. MCCAIN. Mr. President, I yield 15 minutes to the Senator from Delaware, Senator ROTH.

Mr. NICKLES. Will the Senator yield to me?

Mr. MCCAIN. Yes.

Mr. NICKLES. Mr. President, I rise today in strong support of the Line-item Veto Act. The final Senate consideration and passage of this historic legislation is the result of years of hard work on the part of many of my colleagues.

I particularly wish to congratulate Senator MCCAIN and Senator COATS, who have dedicated so much of their time and energy to this initiative. In recent years, they have taken up this cause which was so actively pursued in the past by Senator Mattingly, Senator Evans, and Senator Quayle.

My colleagues have shown great courage over the years in continuing to bring this issue to the floor of the Senate. They did this at some political risk, yet they did not waver. They believe in this issue, and I think they are right.

I believe the line-item veto is vitally important. Mr. President, it will save money, and right now we are spending too much and our budget process does not work very well. The line-item veto is certainly not a panacea for all our
budget problems, and it will not balance the budget. But it will help.

According to the Library of Congress, at least 10 Presidents since the Civil War have supported the line-item veto, including Presidents Grant, Hayes, Arthur, Cleveland, Taft, Hoover, Truman, Eisenhower, Nixon, Ford, Reagan, and Bush. Further, 43 of 50 State Governors have some form of line-item veto authority.

At its essence, this is a debate over checks and balances. Right now, we are writing a lot of checks, and there are few balances. Congress spends the money, and the President has two options. One, he signs the bill, or two, he vetoes the bill.

Historically, the balance of spending power between the executive and legislative branches of Government has varied considerably. Prior to 1974, several Presidents impounded congressionally directed spending, and Congress had little recourse.

According to the Congressional Research Service, the first significant impoundment of funds occurred in 1803 when President Thomas Jefferson refused to spend $50,000 appropriated by Congress to provide gunboats to operate against river improvement projects in 1876 because they were of a local interest rather than in the national interest. President Roosevelt impounded funds during the Great Depression and World War II, and in the 1960's President Johnson withheld billions of dollars in funding for highway projects.

This conflict came to a head in the 1970's when President Nixon impounded over $12 billion for public works housing, education, and health programs. Nixon's action led to the enactment of the Congressional Budget and Impoundment Control Act of 1974. Under this legislation, Congress eliminated the President's impoundment authority in exchange for establishing its own budget process.

Under the Congressional Budget Act, the balance of spending power is now significantly in Congress' favor. The President may now propose rescissions of appropriated funds, but Congress is not obligated to consider them. The General Accounting Office reports that from 1974 to 1994, Presidents have proposed 1,084 rescissions of budget authority totaling $1.8 billion. Congress has adopted only 399, or 37 percent, of the proposed rescissions in the amount of $22.9 billion. Congress has also initiated 649 rescissions totaling $70.1 billion, but most of these rescissions have been used to offset other Federal spending.

Mr. President, I have served on the Appropriations Committee. They probably work as hard as any committee in the Senate, and they are responsible for spending a little over $500 billion, about a third of what the Government spends right now.

For the most part, they do an excellent job with the annual appropriations bills and supplanters, but I can tell you from experience that every single appropriations bill has had items in it that we do not need and we cannot afford. The line-item veto will give the President the ability to strike those items that we cannot afford. We may or may not agree, but if we disagree, we can try to override his veto.

Mr. President, I think it is important to note that this line-item veto will impact not only appropriated spending, but also new entitlement spending and limited tax spending. I know it is the outrageous growth of entitlement spending that is causing our deficit problems, so I think it is a significant step to give the office of the President more authority to control the growth of these programs.

Mr. President, again, I compliment my colleagues, particularly Senator McCain and Senator Coats, for their leadership. They have taken this issue on year after year, many times at considerable political pain. I compliment them for their courage, and I am proud of their success.

The line-item veto is a significant accomplishment for the 104th Congress, but I continue to hope that it is not our final word on the line-item veto. It is with no small degree of frustration that I note that President Clinton and the Democrats killed the constitutional amendment to balance the budget, they killed the Balanced Budget Act, and they killed welfare reform.

When President Clinton campaigned on a line-item veto in 1992, he claimed that he could reduce spending by $9.8 billion during his term. I wish we could have given it to him earlier, since spending has actually increased during his term so far. Even more amazing is that right now, in some room in the Capitol building, the President's aids are insisting on spending $8 billion more this year.

Mr. President, I hope the line-item veto is not our most significant budget accomplishment this year, but even if the President continues to block our other initiatives, this legislation will stand out as a shining example of our success.

Mr. BYRD. Mr. President, I yield 30 minutes to Mr. Bumpers and 30 minutes to Mr. Sarbanes at such time as they are recognized.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. ROTH. Mr. President, today the Senate turns to the conference report on the line-item veto legislation. This legislation would provide for enhanced rescissions procedures to allow the President to cancel new items of direct or entitlement spending, appropriations, and limit the tax benefits; in sum, virtually all Government expenditures.

Mr. President, while I do support the conference report's beliefs in the intent of the legislation, I am concerned about the way the legislation affects tax provisions. Let me first outline my views regarding the underlying conference report, and then I will turn to the troublesome language regarding taxes.

Let me be clear that I believe that the line-item veto will not solve our deficit problem. In fact, it will be used to help the President spend. We all know, that we need every possible tool to help reduce Federal spending.

This is a very important issue that was contained in the Contract With America. The Congress continues to keep its promises to the American people in passing legislation that will help reduce Government spending, the budget deficit, and the debt burden on our children. In the Senate's first joint hearing with the House on the issue in January 1995, before the Governmental Affairs Committee, Mr. Alice Rivlin, Director of the Office of Management and Budget asked that the Congress provide the strongest possible line-item veto power to the President. I agreed with Dr. Rivlin's statement. Congress has acted and will now give the President a very strong version of the line-item veto powers. Both the Senate and House passed the line-item veto overwhelmingly. This week the Senate will pass the conference report. A historic moment.

Mr. President, the time has come to put an end to out of control Federal spending that has taken money from the private sector—the very sector that creates jobs and economic opportunity for all Americans.

The American people are crying out for a smaller, more efficient Government. They are concerned about the trend that for too long has put the interests of big government before the interests of our job-creating private sector. They are irritated by the double-standard that exists between how our families are required to balance their checkbooks and how Government is allowed to continue spending despite its deficit accounts.

I believe that spending restraint for our nation is one of the most important steps we can take to ensure the economic opportunities for prosperity for our children and for our children's children.

As a nation—and as individuals—we are morally bound to pass on opportunity and security to the next generation.

The Federal behemoth must be reformed to meet the needs of all taxpayers for the 21st century. I am convinced that it is through a smaller, smarter government we will be able to serve Americans into the next century.

The President's recent budget proposals for next year offer clear evidence of the lack of political will to make the hard choices when it comes to cutting Government spending. His budget does not take seriously the need for spending restraint. In fact, Bill Clinton proposes spending over $1.5 trillion dollars this year and nearly $1.9 trillion dollars in 2002. In other
words, the only path that the President proposes is one that leads to higher Government spending, higher taxes, and ever-increasing burdens for our children.

Deficit spending cannot continue. We cannot any longer allow waste, inefficiency, and overbearing Government to consume the potential of America's future. I am committed to spending restraint as we move to balance the budget. As I said before, the line-item veto, the authority to cancel—with specified limitations—appropriations, entitlements, and tax cuts. This cancellation authority bears closer resemblance to impoundment authority than to a traditional veto.

While the authority conferred upon the President in this legislation is commonly referred to as a line-item veto, the authority is actually an authority to cancel—with specified limitations—appropriations, entitlements, and tax cuts. This cancellation authority bears closer resemblance to impoundment authority than to a traditional veto.

What the legislation before us does is to allow a President to sign an appropriation, entitlement, or tax bill and then exercise a separate authority to cancel an item in those laws, such cancellation to be effective unless Congress, by unanimous consent, over the President's veto, to negate the President's exercise of his cancellation authority.

My concern with this legislation is that I have never heard of impounding a tax cut. I have heard of impounding spending, but not a tax cut. As you know, 43 State Governors have line-item veto authority, but not a single Governor has any authority to cancel a tax cut.

It is my studied judgment that the Federal Government spends too much and taxes too much. The well being of our people would be significantly improved if we could cut spending, but not a tax cut. As you know, 43 State Governors have line-item veto authority, but not a single Governor has any authority to cancel a tax cut.

Fortunately, the President's authority in the tax area is narrow—evidence of the fact that the conferees understood the anomaly of impounding tax cuts. In contrast to the authority on the spending side whereby the President may cancel, first, "any dollar amount of discretionary budget authority" and (2), "any item of direct spending," the authority on the tax side is even narrower. The President has the authority to cancel only spending items and not tax-cut items.

Consequently, whenever a revenue or reconciliation joint resolution that amends the Internal Revenue Code of 1966 is in conference, the joint committee on taxation is required to review the legislation and identify any provision that constitutes a limited tax benefit. If the conferees include this list of identified items in the conference report, the President can cancel a tax item only if it appears on the list. If the joint committee on taxation finds that the bill contains no limited tax benefits and Congress includes in the conference report that no such items exist, the President is thereby foreclosed from canceling any tax item. However, if Congress does not include a statement either identifying the specific limited tax benefits or declaring that none is contained in the bill, then the President may cancel a tax item if it falls within the definition of a limited tax benefit. The President is thereby foreclosed from canceling any tax item. However, if the joint committee on taxation finds that the bill contains no limited tax benefits and Congress includes in the conference report that no such items exist, the President is thereby foreclosed from canceling any tax item. However, if Congress does not include a statement either identifying the specific limited tax benefits or declaring that none is contained in the bill, then the President may cancel a tax item if it falls within the definition of a limited tax benefit.

A "limited tax benefit" is a defined term, which covers two specific categories. First, a revenue losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; or second, any Federal tax provision which provides temporary or permanent transition relief for 10 or fewer beneficiaries in an fiscal year from a change to the Internal Revenue Code. In further contrast to the President's authority to cancel on the spending side, the legislation before us provides an additional mechanism that applies only with respect to limited tax benefits, in order to further circumscribe the President's authority. This mechanism provides that in certain circumstances Congress may reserve unto itself the sole authority to identify those items in a revenue or reconciliation bill or joint resolution that constitute a limited tax benefit. Such identification by Congress is controlling on the President, notwithstanding the definition of a "limited tax benefit" in the pending legislation, and is not subject to review by any court.

Historically, the Senate has enacted tax legislation either by unanimous consent, in the case of simple bills, or by a three-fifths majority. In the case of more significant bills. As a practical matter, the bills adopted by unanimous consent generally deal with one subject and are not an important concern to advocates of a line-item veto authority in the tax area. Consequently, the President may contain a large number of tax items. It is in such context that a limited tax benefit might be found.

First of all, the constitutional problems with this bill are insurmountable. The people listening or watching television in a hearing, nowhere in the Constitution is the word veto mentioned. Here is what the Framers said in article I of the Constitution:

Every bill which shall have passed through both houses of Congress shall, before it becomes a law, be presented to the President of the United States: If he approves he shall sign it, but if not he shall return it with his objections to the house in which it shall have originated.

I have been here 21 years. I am not a constitutional scholar but a country lawyer with a great reverence for the Constitution. I have voted against more constitutional tinkering, I will vote against any Senator in the past 21 years. Unhappily, we have Members of this body who think that what Madison and Adams and Franklin did 207 years ago was simply a rough draft for us to finish. This is a classic case of casual tinkering with our Constitution, that sacred document which was put together by the greatest assemblage of minds under one roof in the history of the world.

Do you know what else it is? It is a classic political response to an admitted problem. It is a diversion and a distraction of the American people. It tells them, "Here is a simple answer to the problem, than any Senator in the past 21 years. Unhappily, we have Members of this body who think that what Madison and Adams and Franklin did 207 years ago was simply a rough draft for us to finish. This is a classic case of casual tinkering with our Constitution, that sacred document which was put together by the greatest assemblage of minds under one roof in the history of the world.

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years later the national debt had gone from $1 trillion to $3 trillion—tripled in 8 years. I do not want to be hypocractic of President Reagan, but I heard him say time and time again, “I can’t spend a nickel that the Congress doesn’t appropriate.”

What he should have been saying is “The Government cannot spend a dime unless I sign off on it.” Despite all of that rhetoric and talk about spending and deficits, from 1980 to 1992, the deficit went from $1 to $4 trillion. President Reagan vetoed an appropriations bill, and President Reagan vetoed one spending bill because it was not big enough—a Defense bill. He vetoed it because it did not have enough money in it.

President Clinton told my friends on the other side of the aisle, “You pass that reconciliation bill, and I am going to veto it.” And they passed it, and he vetoed it. He did not veto it because of the amount of money in it. He vetoed it because of its priorities. But at this very moment, conferees all over this Capitol building are meeting trying to craft a resolution about differences on spending and programs. Frankly, not making much headway.

The President wants another $3 billion in education, and that is the sticking point. Let me digress just for a moment on that point and say I saw the most interesting quote yesterday. I think it was the President of Peru who said everything should be subordinate to our children they are just forming their brain cells, their bones, their minds, and bodies, and they do that in a few short years. His point was that if you neglect your children, you have lost a generation of what would otherwise be healthy, productive citizens. I thought that comment was beautiful, appropriate, and absolutely true.

So our President is simply saying that for everybody we allow to grow up in ignorance, we need to pay a price for it. I do not know whether he is going to get the $3 billion or not. We may have another continuing resolution. I think we will. But my point is this. We are negotiating, and we are talking. If I were to say to my friends on the other side of the aisle, “Let us just send this bill over to the President and let him pick and choose what he wants to kick out,” I would start a riot right on the floor of the Senate. Nobody wants to do that.

This morning we had a vote. Everybody here knew it was about it was about the Utah wilderness bill. Even the people of Utah, apparently, did not think much of that bill. It is very controversial. But the bill tracked almost exactly what President Bush recommended to the President.

Now, if President Bush were sitting in the White House right now and we were voting on cloture, as we did this morning, and the advocates of the Utah wilderness bill needed the nine votes that they did not get this morning, they could go to the White House and the President could call three Republicans and maybe six Democrats and say, “I have been looking at this bill over here. You know that little old research center you have down in your State, and you do not care much about it. They do not think it is needed. They think it is a waste of money. I am inclined to disagree with my people. But, while I have you on the phone, I am a strong proponent of the Utah wilderness bill. Perhaps you and I could sit down. We could talk this over. Maybe you could see my way on the Utah wilderness bill and perhaps I could see your way on that little research center you have in your State.”

It is not unheard of. I just got through confessing to you that is what I did when I was Governor. I have fought against 12 aircraft carriers; I thought 10 was adequate. I fought against bringing those old moth-eaten battleships out of mothballs at a cost of about $2 billion. Now they are back in mothballs. I fought and have continued to fight against the space station, which will go down in history as the most outrageous waste of money in the history of the U.S. Government. We finally killed the space station. On every one of those things, the President was on the other side. And we build a multiple launch rocket in Camden, AR. Are you beginning to get the picture? The President might say, “Well, now, Senator, they tell me you are hot against the space station. I am hot for it.” And the Defense Department told me they were thinking about moving the manufacturing of the multiple launch rockets to someplace in Alabama.” Do you think that does not get my attention, 750 jobs?

When James Madison and his colleagues in Philadelphia in 1787 were crafting that document that has given this country the oldest democracy in the history of the world, they said the power of the purse will be vested in Congress. They did not say “unless the President decides to tinker with the figures.” They said, “The Congress shall pass appropriation measures.” Do you know what they gave us in exchange for that? They said, “You can spend the money, but you also have to raise it.” That was supposed to be a nice balance. You have to tax the people. That is not popular. You have to raise the money with taxation before you can spend it, but we are going to give you the power of the purse.

What are we doing? We are saying, “Mr. James Madison you don’t know what you were doing. You made a colossal mistake when you crafted our Constitution, so we are going to correct it. We are going to give the President all the powers you gave him in the Constitution, and we are going to take 750 jobs away from Congress and say you not only have all the executive powers, being Commander in Chief and all those things, we are now going to give you the power of the purse.”

Colleagues, do not, 2 years from now, 3 years from now, come on this floor and start crying about this mistake we are about to make. Oh, I know it is popular. You walk in any diner in America and ask, “Do you favor the line-item veto?” You bet. “Do you favor prayer in school?” You bet. “Do you favor the balanced budget amendment to the Constitution?” You bet. “Do you favor balanced budget amendment to the Constitution?” You bet. Count me in. “Are you against flag burning?” You bet. All those things that have a great emotional impact on people, until they have heard, as Paul Harvey says, “the rest of the story.”

We are saying, “Mr. President, stop us before we spend again. We are out of control, and only you can bring us under control.”

This is not such a good idea for the President, either. Everybody knows President Clinton and I have served our beloved State of Arkansas together for many, many years. He is my friend. But he is for this. I am sick that I did not have a chance to disagree before he said that publicly. But he says he is for a line-item veto, and that is a mild disappointment to me.

But, you know, Mr. President, if he pokes one of those projects that are the wrong projects and decides to send them back over here and require us, ultimately, to have a two-thirds vote in both Houses in order to pass, he may
get in trouble in some State. So what do you think he is going to do? He did not just fall off a watermelon truck. He did not get elected President by being stupid. He is going to be very careful about what he excises out of the appropriations bills for fear he will lose that State.

Right now this Presidential race is heating up. Do you think a President is going to take anything big out of a bill in an election year? In an off year, when he is not running for President, he might pick out a couple of Senators he does not like, who have been particularly obstreperous and have fought against some of his programs, and in a year when he is not up for reelection, he may decide to take some of those projects out of the States of Senators of the other party.

Bear in mind, when we first started talking about term limits, it swept this country like a prairie fire. It is a terrible idea, a lousy idea. I have been a member of Congress for 38 years and I have never seen one do anything for it. Virtually every Member of this body on the other side of the aisle thought it was wonderful until they got control of Congress, and now you cannot even get it up for a vote.

We kept people's attention diverted just long enough, and the Republicans took control of Congress, and now it is not worth the cost of electricity to have a roll call on term limits. It would be defeated soundly. And when it comes to the line-item veto, they want a line-item veto so desperately—in all fairness 19 Democrats voted for this thing, too. What was it about? Take the heat off Ronald Reagan. That is really where it all started.

Then, suddenly, the contract, the famous Contract With America, over in the House of Representatives, it was put in the contract: line-item veto. Not many people in America knew it. Not many people in America cared. So we passed it, now running for President, they wanted a line-item veto so desperately. They had a line-item veto so desperately—in all fairness 19 Democrats voted for this thing, too. What was it about? Take the heat off Ronald Reagan. That is really where it all started.

Those are the shenanigans that are going on with our sacred Constitution. Mr. President, another thing that those in Philadelphia almost 209 years ago is they provided a third branch of Government called the judicial branch. They set up a Supreme Court and such lower courts as Congress may establish. They are independent, and they are named for life. You cannot threaten them. An article in New York Times this morning describes a letter from the Federal judges vigorously opposing this, because if a Federal court renders a decision the President does not like, the next time around, he can just take their money away from them. He cannot take their salaries because you cannot reduce their compensation as long as they are sitting on the Court. You can take their clerks and secretaries away from them; you can cut the air-conditioning off. To give the President that kind of authority over the independent judiciary is the height of irresponsibility.

We give the President authority over the independent judiciary, which I think is wise, but we do not give it to him deseponsibly. What we are talking about is the line-item veto. We have said we want our funds back. People have talked about term limits, but there are those laws they’re passing over there in conformance with this Constitution or not?"

So was born the doctrine of judicial review. Thank God for John Marshall and judicial review and a truly independent judiciary.

So, Mr. President, this bill gives the President a legislative authority to amend bills. He can literally amend our bills. I am terribly uncomfortable knowing this bill is going to sail through here with a big majority, but I am comforted in the fact that I believe the independent judiciary that was set up to stop such foolishness as this will, indeed, do so. So I repose my trust in the Supreme Court of the United States on this issue.

I yield the floor.

Mr. HOLLINGS. Mr. President, when the Senate passed the line-item veto back in March of 1995, taxpayers across the Nation rose up and thanked the Republican majorities in both Houses to reinstate the line-item veto which avoids the constitutional objections that are evident in proposals that seek to change the Presidential spending authority. We have touted the line-item veto as a meaningful way to restore responsibility and accountability to the budget process. Specifically, I have supported the separate enrollment legislative line-item veto which avoids the constitutional objections that are evident in proposals that seek to expand Presidential rescission powers. Under the separate enrollment mechanism, after legislation has passed both Houses of Congress in the same form, the enrolling clerk would enroll each appropriations item, target tax benefit, or new entitlement spending provision as a separate bill. In allowing these items to be considered as separate bills, the President would be forced to use his existing veto power as defined in the Constitution to reject legislation.

Currently, some 43 States provide their chief executive with some version of the veto pen. As a Governor of South Carolina, I used the line-item veto to balance four State budgets and win the first AAA credit rating of any Southern State. As a United States Senator, I have worked tirelessly to pass the line-item veto. In 1985, working with former Republican Mack Mattingly of Georgia, we rounded up 58 votes in the Senate for a line-item veto that was the prototype for the Senate passed version. In 1990, I offered similar legislation before the Senate Budget Committee and we adopted my bill by a vote of 13 to 6—the first time ever that the line-item veto had ever been favorably reported out of the Budget Committee. In 1993, Senator BILL BRADLEY and I offered an amendment to the balanced budget reconciliation bill that would have applied the line-item veto to wasteful tax breaks as well as unnecessary spending and garnered 53 votes. But instead of fighting for the proposal that has been gaining ground, the Republican majority is directing the enhanced rescission proposal, has backed the wrong horse. First, the conference report's enhanced rescission approach damages the fundamental balance of power between the coordinate branches of Government that is the cornerstone of our constitutional system of Government. Under current law, Presidential rescissions are suggestions. They have no force of law until Congress, as the legislative branch, enacts those changes. However, with the line-item veto proposal, Congress may establish those laws they're passing over there in conformance with this Constitution or not?

Second, the conference report's definition of a limited tax benefit would do little to focus scrutiny on special interest tax breaks. The original Senate bill, like the legislative language in the Republican Contract With America, appropriately recognized that pork is pork, be it of the tax or spending variety. But under the conference report, the definition becomes a tax lawyer's dream. States that an item will be considered to be a limited tax benefit only if it is a tax benefit that goes to 100 or fewer beneficiaries or a temporary relief provision that accrues to
Mr. President, this struggle will continue. And I will be willing in the future to work with colleagues on both sides of the aisle, as I have in the past, to develop a responsible, workable, constitutional, and bipartisan legislative approach. That day is not today, but with the Presidential races in full swing, I fear once again that politics, not policy, is the driving force behind today's controversy.

Mr. BIDEN. Mr. President, I have for many years now supported a line-item veto that can help to wipe out wasteful special-interest spending items that are added to our appropriations bills. But I have also cosponsored and supported line-item veto authority for the President that includes the authority to cut special-interest tax breaks, that lose money from the Treasury as surely as any spending program. In many ways they weaken our control over the deficit more than annual spending bills.

Because tax breaks characteristically last for years with little or no review, they can cause more damage than any single item in 1 year's appropriations bill.

The line-item veto we passed out of the Senate last year, the separate enrollment version that I have consistently supported for over a decade, included clear and strong language that put special-interest tax breaks under the same veto power as any pork-barrel spending project.

Unfortunately, the version that came out of conference with the House has so diluted that provision that it may well apply to very few tax breaks.

That is why I will vote for Senator BYRD's proposal, that restores the clear authority to cut tax breaks as well as special-interest spending.

Mr. DOMENICI addressed the Chair. The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico has 86 minutes. The Senator from West Virginia has 4 hours 9 minutes.

Mr. DOMENICI. At this moment, do I understand there is 5 minutes before Senator Moxihan's time?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I yield myself 5 minutes.

Mr. President, before we finally vote to table Senator BYRD's motion, there will be another 15 minutes on our side for discussion and some kind of rejoinder. But I just want to have a 5-minute discussion with the Senators about this issue of the shift in power.

I say to all of them, I have been concerned about that for a long time. I was concerned about it as this line-item veto concept, over the last decade, worked its way through here. But I vote line-item veto, I wish that day the record with an important that Congress is left with no power to respond to a President's use of this item veto authority.

So if, indeed, Mr. President, any President of the United States chooses to make a mockery of the Senate or the House by arbitrarily exercising this veto, let me suggest the Senate has to confirm his Cabinet. The Senate has to confirm his appointees, and there are hundreds of them. The President of the United States needs legislation. They work to get elected, and they send us their proposals. Their proposals are their policies and they need to pass Congress to become law. I suggest that any President who would choose to act capriciously and arbitrarily in this line-item veto exercise will do so at his own risk. We are really trying out this item veto—it is an experiment in seeing if we can do a better job of spending the taxpayers' money. I believe Presidents who will arbitrarily and capriciously use that tool take unto themselves the opportunity that will certainly find that Congress will have a chance to respond arbitrarily to them.

I am not threatening this, and I am not suggesting a tit-for-tat sort of situation. But the truth of the matter is, there is some serious balance of this power that remains vested in the Congress of the United States. Indeed, speaking for our institution, the U.S. Senate, this institution, there are plenty of things Presidents need the U.S. Senate to do so they can do their executive work well.

After all, the President is the Executive. He needs Congress to help him so he can use his Executive powers. If he chooses to use them arbitrarily with reference to the line-item veto, then, obviously, he might find an uncooperative Senate, he might find an uncooperative Congress. I do not think that is ever going to occur, but I thought it might be good for the record just to explore that we have not given away all our power, we have not given away all our ability to say no. We cannot arbitrate the line-item veto to Presidents of the United States on a myriad of things that the President needs for his Executive power.

Now, why do I say it that way? Because the contention is that he is taking away some of our prerogatives as legislators in the appropriations process, and if he chooses to do that arbitrarily, then he is, obviously, weakening our power.

I am suggesting we are not without recourse. I think there is going to be a give and take for a few years, but we are not also accepting this concept in perpetuity. We are giving the Executive the line-item veto for 8 years, two full Presidential terms. Then we will have to pass it again or change it.

But, indeed, that event of taking another look to see if it is being used properly or if we should further define things is not left solely within the discretion of Presidents, because this line-item veto sunsets in 8 years and we will have something to say about the continuation of it.

The arguments about constitutionality, the arguments about balance of
power are serious. I commend the number of Senators for raising these seri-
ous issues in very delicate and sincere ways and I commend them for their concern. Most of all, I commend Sen-
ator BYRD for his dedicated explana-
tion of the provision and I read that book. He wrote a whole book about the Roman senate versus losing its power and com-
pared it in many ways to what he per-
ceives might happen in this regard.

I was privileged to get one of those books. I do not always read books that are of great interest to me, but I read that book. In fact, I told the Senator I had and I thought it was exciting.

He reminded me the successor to Rome was Italy. He reminded me I thought it was exciting.

Nonetheless, I thought that we ought to get this short 5-minute argument in response, just for our perspective in terms of why we are not fearful, why we do this with open eyes and open mind. That it will help the American people get better Govern-
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American political system, a stability—I use that word in both of its

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parts of the constitutional design for

Framers granted the President no such spe-

power of the purse in Congress. That is plainly unconsti-
tutional.

The separate enrollment bill passed

by the Senate last March would have required appropriations bills to be dis-
sembled by the enrolling clerks after passage and presented to the President, one by one, for his signature. During that debate I spoke at some length about a constitutional and practical defects. The legislation before us is somewhat less convoluted. But its ef-

fect on the separation of powers be-

 tween legislative and executive branches would be just as profoundly destabilizing.

I will describe at this point what has been described as the methods, the pro-
cedure for cancellation. Once such a cancellation is made, it would ulti-

mately require a two-thirds vote of the Congress to override. The legislation

would have us depart dramatically from the procedures set forth in the plain language of the presentment

clause in article I, section 7.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it.

There is nothing ambiguous about this provision. The Supreme Court de-
cclared in INS versus Chadha in 1983 that—I quote the Court:

It emerges clearly that the prescription for legislative action section 7, re-

presents the Framers’ decision—[the framers’

decision, Mr. President]—that the legislative power of the Federal Government be exer-

cised in accord with a single, finely wrought and exhaustively considered procedure.

In Chadha the court held unconstitu-
tional a statute that permitted either

House of Congress by resolution to inval-
date decisions of the executive branch that aliens could be deported. This so-called legis-

lative veto, according to the Court, impermissibly departed from the ex-

plicit procedures set forth in article I,

which the court said were “integral parts of the constitutional design for the sepa-

ration of powers.”

And 3 years later, in Bowsher versus

Synar, the Supreme Court was equally scrupulous in requiring strict adher-
cence to the procedures set forth in article I. In Bowsher the court validated the provision of the Gramm-Rudman-

Hollings Deficit Control Act, giving the Comptroller General of the United States authority to execute spending

reductions under the act. The Court held that this violated the separation of powers because it vested an execu-
tive branch function in the Comptroller General, who is a legislative branch official. “Underlying both decisions,”

Professor Tribe wrote, “was the premise . . . that the powers delegated to the three branches are functionally identifiable, distinct, and definable.”

There is no ambiguity about the meaning of the requirements of article I, section 7, nor is there any uncer-
tainty about why the framers vested the power of the purse in Congress. Madison in Federalist No. 58:

This power over the purse may, in fact, be regarded as the most complete and effectual

means by which any government can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Until the Supreme Court considers this bill—and it surely will—we will not have a definitive constitutional de-
termination. But some of the Nation’s leading constitutional scholars have al-

ready concluded that this legislation

should be struck down by the courts when it reaches them.

Michael J. Gerhardt, a sometime pro-

fessor of law at Cornell University, and

now professor of law at the College of

William and Mary, has written me to say, that in his opinion—I quote—“its

constitutionality is plainly doomed.”

He argues first that this legislation violates article I, section 7, in that it

permits enactment of a bill that has never been voted on by Congress as such. That is, by exercising its power to
cancel any part of the bill after sign-
ing it, the President would be creating a new law in a form never considered by Congress. That is plainly unconsti-
tutional.

Professor Gerhardt argues that granting the President power to reconfigure bills passed by Congress is a legisla-
tive function which may not be dele-
gated to the Executive. Finally, he

notes that even if Congress could dele-
gate the proposed veto power to the

President, “Congress lacks the author-

ity to restrict Presidential authority by limiting the grounds a President may consider as appropriate for vetoing

something.”

In his treatise, “American Constitu-
tional Law,” Laurence H. Tribe of the Harvard Law School writes that—

... empowering the President to veto ap-

propriations bills line by line would pro-

foundly alter the Constitution’s balance of power. The President would be free not only to nullify new congressional spending initia-
tives and priorities, but to wipe out pre-

viously enacted programs that receive their

funding through the annual appropri-
sations process.

Professor Tribe goes on to say:

Congress, which the Constitution makes the master of the public purse, would be de-

moted to the role of giving fiscal advice that the Executive would be free to disregard. The

Framers granted the President no such spe-
cial veto over appropriations bills, despite
their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they passed the lower house had greatly enhanced the growth of legislative power.

Yesterday, we asked Professor Tribe for his opinion on the legislation before the Senate today. He graciously telephoned our office this morning to say that after studying the conference report, he has concluded as follows. This is Laurence H. Tribe this morning:

This is a direct attempt to circumvent the constitutional prohibition against legislative vetoes, and its delegation of power to the President to override the veto. The application of the bill here is a matter of the "separate enrollment" of the Senate, which the Constitution reserves as the exclusive right of the Senate to examine the President's actions.

The provision purports to subject tax benefits to the same treatment under the line-item veto as other spending, yet the bill's application to limited tax benefits would have very little real effect, save, as I believe, pernicious ones. Under the bill, a limited tax benefit "is defined as any tax provision (first), a revenue-losing provision; (second), having 100 or fewer beneficiaries in any fiscal year; and (third), not within a number of very broad exceptions designed to exempt from the line-item veto any tax provision under which "all similarly situated persons receive the same treatment."

Any transition rule that the Joint Tax Committee estimates, under which benefits previously accorded exporters and the beneficiaries of a particular provision; Would the football coaches pension provision—and, yes, there was one, in the vetoed Balanced Budget Act of 1995—be deemed to benefit only one or two beneficiaries, or more than 100 coach participants? I could go on longer than the Senate would be interested or perhaps even edified to hear.

There is a final point, sir. By vesting in the Joint Committee on Taxation the exclusive authority—not subject to judicial review, not subject to debate on the Senate floor—the exclusive authority to make these determinations, this legislation would effectively grant the Joint Tax Committee the authority to make the determination on the chairmen of the Senate Committee on Finance and the chair of the House Committee on Ways and Means—those two persons to the exclusion, I fear, of the rest of the Congress, the Members of either body. While the Joint Tax Committee may indeed be the best institutional decisionmaker on technical tax issues, the decision of what constitutes a limited tax benefit can and should be made by the Members of the two tax-writing committees.

The decision is so narrowly drawn that it will be almost effortlessly circumvented, for it is surely simple enough for a Member of the Finance Committee for 20 years, let me assure you, there is no problem expanding the number of beneficiaries from 10 to 100. It is very readily done and perhaps too often so.

To the extent the drafters are unwilling or unable to manipulate this numerical standard, one of the "similarly situated" exceptions often will be available to the limited tax benefit designation. By way of an example, the conference report states that a provision that benefits only automobile manufacturers would not be treated as a limited tax benefit because "the benefit is available to anyone who chooses to engage in the activity." Thus, a provision that benefits only Ford Motor Co. but is drafted in a manner potentially open to General Motors and Chrysler would apparently escape the line-item veto.

The tax-writing committees often and properly find that tax relief may be justified in narrow circumstances. Such narrow relief is and ought to be granted sparingly, yet these features of the bill create a perverse incentive to craft broader tax benefits than necessary in order to avoid application of the line-item veto. This is surely counterproductive.

Second, while seemingly objective on its face, the definition includes several elements that are sufficiently ambiguous, raising a number of questions. For example, what does it mean to be "similarly situated?" Can a provision be drafted to benefit all baseball team owners to the exclusion of other sports, or is it determined who are the beneficiaries of a particular provision? Would the football coaches pension provision—and, yes, there was one, in the vetoed Balanced Budget Act of 1995—be deemed to benefit only one or two beneficiaries or more than 100 coach participants? I could go on longer than the Senate would be interested or perhaps even edified to hear.

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which a chairman worked were asked to make a concession in return for an accommodation; supposing that member had to think: The minute this bill becomes law, that chairman will go to that President and say, “Take out that provision that was made for the Senator from Louisiana because I have only done to get your bill by, Mr. President.” You will not have that which makes legislation possible. You will not have that spirit of trust, which performance reinforces and creates the stability of our institutions. For there is no trust, there will be no compromise, and if there is no compromise, there will be no Government—no stable Government.

I sometimes think of this simple fact. Mr. President, there are seven nations on Earth that both existed in 1914 and have not had their form of government changed by violence since 1914. There are two since 1800, and we are one of them. We are one of the seven and we are one of the two. That continuity did not come easily, nor should it be assumed a given. That stability rests on the rock bed of the Constitution, and we do a very poor service to that stability when we begin to dynamite away portions of that rock bed.

I will close with simply one statement, which we are all required on our oaths to observe. The judicial Conference of the United States has written to us to say: Do not do this. We are the least harmless branch—again, remember Madison—and we cannot make you do it. I will quote them:

“The line-item veto authority poses a threat to the independence of the judiciary because a President could put pressure on the courts to retry individuals convicted by reenactment, which we are all required on our parts of that rock bed.”

I will also, finally, ask unanimous consent that the letter from Prof. Michael Gerhardt, along with two letters from the Judicial Conference of the United States, be printed in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

**College of William & Mary School of Law**, Williamsburg, VA, March 27, 1996.

Hon. Daniel Patrick Mowinckel, U.S. Senate, Washington, DC.

Dear Mr. Mowinckel: I appreciate the chance to share with you my opinion on the constitutionality of the Line Item Veto Act of 1996, as set forth in the Conference Report, dated March 4, 1996 (hereinafter “the Republican Draft” or “the Conference Report”).

In this letter, I focus only on a few of the more serious problems with the Republican Draft and do not purport to analyze every flaw in its constitutionality. Even so, I am of the view that, given just the few significant flaws in the Conference Report that I identify and explain below, its constitutionality is plainly doomed.

Describing how the law works is crucial for identifying the constitutional and practical problems posed by some of its major provisions. As I read it, the critical delegation made by the Republican Draft is to the President: "You do it. I will quote them:

Article I states further that the President’s veto power applies to “every Bill. . . . Every Order, Resolution or Vote to which the Concurrence of the Senate and House of Representatives may be necessary.” This means that the President may veto his veto on the legislative product only, as Harvard Law Professor Laurence Tribe maintains in the line-item veto mechanism. The fact that the President has enacted a law is relevant, because a law is valid only if it takes effect in the precise configuration asserted by the President. The President does not have the authority to put into effect as much as a law passed by Congress. For example, the particular form a bill should have as a law is, as the Supreme Court has said, “the kind of decision that can be implemented only in accordance with the procedures set out in Article I.”

The Conference Report would enable the President to make affirmative budgetary choices that the framers definitely wanted to preclude him from making. The framers deliberately chose to place the power of the purse outside of the legislative branch because they feared the consequences of centralizing the powers of the purse and the sword. As James Madison wrote in the Federalist No. 58, “This power of the purse is in fact, by far the most important, because it is the only revenue power perhaps of this most recent one—as well as all of the early presidents, for that matter—has shared the understandings that only the Congress has the authority to make budgetary legislation, that this authority is a crucial component of checks and balances, and that the President’s veto authority is strictly a negative power that enables him to strike down but not to rewrite whatever a majority of Congress has sent to him for signature.”

The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the President by the recognition that pork barrel appropriations—the evil sought to be eliminated by the Republican draft—are just an example of legislation for diverse interests, which is the verystuff of representative government. Apportioning the public fisc in a large and diverse nation requires that Congress of compromise that the framers left to the initial discretion of Congress to be undone only as specified in Article I.

The second constitutional defect with the Conference Report’s basic procedures involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of congressional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine. This misunderstanding is reflected in the CRS Report, which claims erroneously that “while the [Supreme] Court has used powers of Congress to legislate for diverse interests, which is the very stuff of representative government.”

The Supreme Court has issued two analogous principles of congressional delegations. The first, which is not implicated by the Conference Report, involves delegations from Congress to administrative agencies or inferior bodies. The Court has characterized the as a “functionalist” approach to separation of powers under which the balance of power and interest at stake to ensure that the core function of a branch is not frustrated. For example, the Court used this approach in and to uphold the Independent Counsel Act in which the Congress had delegated the executive function of criminal prosecution to an individual not formally associated with any of the three branches. Similarly in , the Court upheld the composition and lawmaking function of the Congress, not the functions of the branch, at least three of whose members are required by law to use lower court judges and to which the Congress delegated the authorities to promulgate, review, and revise sentence-determinative guidelines.

The Republican Draft clearly violates, however, the second, more fundamental, Court decision on congressional delegations. These cases involve delegations from Congress to the titular head of a branch, such as one of its chambers or the President, and where the Court has not used a balancing test; rather, the Court has used a “formalist” approach that treats the Constitution as granting each branch the competing concern of its own constitution and function, at least three of whose members are required by statute to be lower court judges and to which the Congress delegated the authorities to promulgate, review, and revise sentence-determinative guidelines.

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of Review partially composed of members of Congress with executive veto-like power over the decisions of the directors of the Metropolitan Washington Airports Authority. Unsurprisingly, the Joint Committee would favor a formalist approach in striking down the Republican draft. For one thing, the Court would not have to apply the one-vote rule from Bowsher v. Synar to the proposed law. Where—as the crucial problem in Bowsher was Congress’ attempt to authorize the exercise of certain veto power by a non-legislative agent—the Comptroller General, here the problem is that the President would plainly be exercising what everyone agrees is legislative discretion in determining the particular configuration of a bill that will become law. Even the law’s proponents admit it allows the President to exercise his authority, albeit in their view delegated to him by Congress.

Formalist analysis would be appropriate in evaluating such a delegation’s constitutionality because it would be the kind of delegation in which the framers were most concerned; the checks and balances set forth in the Constitution deal directly with how the titular heads of each branch should interrelate. Hence, the Court has opted for a formalist approach to deal with delegations between the two branches. The Court has precluded one branch from arrogating itself at the expense of another. The Conference Report would clearly undermine the balance of power and the centers of strength at the heart of the Constitution; it would eliminate the Congress’s primary role in the budget area and would unravel the framers’ judgment to restrict the President’s role in the lawmaking process to a qualified negative rather than to have him exercise an affirmative power to redraft or reconfigure a bill. Even apart from whatever constitutional problems the Conference Report may have, it poses two serious practical problems. First, the possibility for substantial judicial review of presidential or congressional compliance with the Republican draft is quite high. For example, it seems likely that lawsuits could be brought challenging whether the President has appropriately considered, as the act directs, such things as “the legislative history” or “any specific sources of information referenced in such law or, in the absence of specific references, the best available information” or “the specific definitions contained within it. At the very least, the Court would have to listen to the President make some showing that he has done these things to the satisfaction of members of Congress (or at least those disposed to bring a lawsuit in the absence of such a showing.) There are also numerous procedures OMB and each house of Congress must follow that, presumably, could become the basis for judicial challenge to the satisfaction of partisan foes in the other branch. In addition, there may be some questions as whether the President has in fact complied with the aforementioned Republican draft’s understanding of the kinds of items he may cancel, such as a “targeted tax benefit.”

The likely prospect of substantial judicial interference with the budgetary process is unsettling. The framers deliberately excluded the unelected federal judiciary from exercising authority over budgetary negotiations or deliberations. The Republican draft does not ensure that this exclusion will always be honored. The framers wanted all of the key decisionmakers within the federal government involved in budget negotiations to be politically accountable; any budgetary impasse between the President and Congress that the federal court might step into would merely add one more step in a budgetary process whose odds of a final result are low. Moreover, the Court would also simply diminish further the public’s confidence that the political process is the place to turn for answers to such deadlocks.

Another practical difficulty is with the authorization made by the Republican draft to the Joint Committee on Taxation to render an official opinion, which may become a part of a budgetary or appropriations measure, on the “constitutional implications” of the President’s action. The bill precludes the House or the Senate from taking issue with the judgment of the Joint Committee’s finding. As a practical matter, the delegates to the Constitutional Convention that adopted the qualifications of the President to appear before a large number of members of Congress to impose their will on the whole body. Although this might have the salutary effect of expediting the passage of the covered legislation, it forces those members of Congress who disagree with the Joint Committee to express their disagreement only by voting down rather than by the power to amend a bill that they otherwise would support.

In summary, I believe that the Republican draft conflicts with the plain language, structure, and traditional understanding of the lawmaking procedure set forth in Article I; relevant Supreme Court doctrine; and the delicate balance of power between Congress and the President on budget matters. I am confident that the Supreme Court ultimately would strike the bill down if it were passed into law and signed into law by the President. It has been a privilege for me to share my opinions about the Constitution with you. If you have any other questions or need any further analysis, please do not hesitate to let me know.

Very truly yours,

Michael J. Gerhardt,
Professor of Law.

FOOTNOTES

1 U.S. Const. art. I, section 7, cls. 2, 3.
3 The Federalist No. 58 at 300 (J. Madison) (M. Beloff ed. 1987).
4 Congressional Research Service, Memorandum Regarding Constitutional Questions Respecting Bill to Grant President Enhanced Rescission Authority over Appropriations and Targeted Tax Benefits, at 16 (January 9, 1995).
11 H. & S. to 672 (footnotes omitted).
12 H. & S. to 672 (footnotes omitted).


JUDICIAL CONFERENCE OF THE UNITED STATES,

Hon. Newt Gingrich,
Speaker, U.S. House of Representatives, Capitol Building, Washington, D.C.

Hon. Robert J. Dole,
Majority Leader, U.S. Senate, Capitol Building, Washington, D.C.

DEAR MR. SPEAKER AND MR. MAJORITY LEADER: I understand an agreement has been reached between Republican negotiators on “line item veto” language. Although we have not seen a draft of the agreement to determine the extent to which the judicial might be affected, I did not want to delay communicating with you. The judiciary had concerns over some previous versions of the legislation that were considered by the House and Senate. These concerns could also apply to the version in which agreement was just reached, depending on how it is drafted. The judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital importance of the judiciary against interfere from any President.
Protection of the Judiciary by Congress against presidential power and potential intervention is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary are insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch, which could use its influence to alter the budget in ways that it perceived as beneficial. The 1921 Act transferred control of the budget to the Congress, thereby safeguarding the financial affairs of the Judiciary from presidential influence.

The Constitution, which protects the tenure of federal judges, also serves to protect the independence of the Judiciary. Section 3 of the Judiciary Act of 1922 provides that judges shall hold office during good behavior, which means that they can only be removed from their positions by impeachment. This provision is designed to ensure that judges are not vulnerable to political pressure from the President or Congress.

The President has the power to make nominations to the federal courts, but the Senate must confirm these nominations before they can take effect. This process is intended to ensure that the President does not have unchecked influence over the composition of the federal judiciary. The Senate confirms nominees on a bipartisan basis, which helps to ensure that the Judiciary is insulated from partisan politics.

Lastly, the fact that the judicial branch is insulated from political influence by the Executive and Congress means that the courts are able to exercise their independent judgment in cases that arise before them. This independence is critical to the functioning of our federal courts, as it allows them to make decisions that are free from political interference.
opportunity to apply that scrutiny both to tax expenditures as well as appropriated spending. It allows us to retain majoritv rule and preserves the balance of power. It avoids constitutional questions that will certainly be raised as soon as this legislation would be enacted, and it is effective immediately.

We do not have to wait for the end of this year. We do not have to assume that we have to wait until the next term of Congress to allow the President the power to be utilized. It allows him to do it now. We can look between now and the end of the year at the ways in which this might be utilized. This will allow us more opportunity to examine whether or not this approach is an appropriate way with which to assure additional scrutiny of spending and tax breaks in the future.

So I applaud the work of the Senator from West Virginia and others who have brought us this opportunity. I think it is important. It is critical that we carefully consider the constitutional questions that the distinguished Senator from West Virginia has raised.

I hope our colleagues will support this motion to recommit. I yield the floor.

Mr. DOMENICI. Mr. President, with the minority leader on the floor, I wonder if it might be in order for me to ask unanimous consent that the yeas and nays be ordered on the Domenici motion to table the underlying amendment. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I yield 5 minutes of my time to Senator Stevens.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. DOMENICI. Mr. President, I call the attention of the Senate to the very basic provision in this bill. It says in section 1021(a), "Notwithstanding the provisions of part A and B, and subject to this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to article I, section 7, of the Constitution..." that the President has the authority to not spend certain portions of the money that he cancels according to the provisions of the bill.

I have heard the concept of many of the Senators, but I want to make sure that we all understand this is no different from giving the President the discretion not to enforce a particular law under certain circumstances or to decide, when based on specific criteria, to impose or to lift an import duty. We have done it before. This conference report has no Chadha problems, based on the Supreme Court decision in the Chadha case. Congress is not going to be given the power to legislatively overturn a Presidential decision with regard to a veto or implementation of a law.

We have the power to take action for the second time after the President uses his authority under this bill to impound or cancel moneys and, in effect, put them into the track where they will reduce the deficit. We can pass a second bill. The President would veto that. He has no authority under this bill to deal with that second proposal. If we pass such a bill and direct the President to spend money he otherwise would not, we have the authority to override his veto; in effect, to mandate him to spend the money as we have said to do so on two occasions.

But I urge Senators not to refer to this as some action to give the President the authority to change a bill before it becomes law or to change in any way legislation that does not affect dollars. He only has the authority to, in effect, cancel the spending of dollars under certain circumstances that, while the circumstances are clearly limited, the scope of the authority is very broad.

Mr. DOMENICI. Mr. President, first, let me add to my brief of yesterday a while ago about Presidents who might abuse this power because a lot has been said about how this might change the balance of power.

I remind every Senator that there is nothing in this bill, limited as it is, that says we have to appropriate money that the President asks us for. You see, if a President decides to be totally arbitrary about this, the Congress of the United States does not have to appropriate money for things the President wants. That is our balance. There can be no money spent unless we appropriate it.

So, in addition to all of the other things the President needs of a Congress and a Senate under the Constitution, those are all our powers that he needs to help him do his job.

In addition, he needs dollars to run the Government of which he is the Chief Executive, and we have to appropriate those dollars.

I am not worried about the balance of power because, obviously, Congress will not be given some of the President's power if this gets into an arbitrary match of power, and I believe it is going to be used to the betterment of our country, our people, and the taxpayers.

With reference to the motion we are going to vote on, let me be very brief and very forthright. The amendments Senator Byrd has offered to the law, I am going to move to table shortly will return the line-item veto to conference. It took us 6 months to reach a compromise on the line-item veto. To send it back with instructions is to kill it because what is purported to be instructed cannot pass the Senate and cannot pass the House.

This motion calls us to cast aside the compromise embodied in this conference report. It calls on the conference to adopt an expedited rescissions approach instead. Both Houses rejected the expedited approach last year. During the Senate's consideration of the line-item veto, we voted 62 to 38 to table the expedited approach which the distinguished Senator from West Virginia, Mr. Byrd, is asking us to instruct the conference committee to do so. Some of the things that will happen, and I believe that is what is intended if these amendments were adopted.

I support the compromise, and it is now time to vote on the conference report on the line-item veto. A vote in favor of the motion will be a vote to defeat the line-item veto conference report before us. I urge Senators not to do that.

So we will all have a chance to make sure we do not send this to conference, I yield back the remaining time that I have, and I yield the floor.

I move to table the underlying amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:
resentative Flowers had another motif—foster economy in Government, Republican was December, 1882. The congressman R.P. Flowers from New York was given on the floor of the House by Congressman Daschle. I want to discuss the issue has been a long and tortured one. In looking back, I found an interesting matter: the line-item veto, projects that are typically spending provisions—which cannot on their own merits survive the legislative process—in massive must-pass appropriation bills.

The “embarrassment” and “public mischief” to which the 21st President was referring was the same problem then that it is today: The tactic we in Congress used to curb spending, lower taxes, and get on to other business. Let us pass this conference report and get on to other business. The American people one more tool—one more check against unnecessary spending. However, it will give the American people one more tool—one more check against unnecessary spending. Frankly, in my view, we need all the help we can get in that regard. So, I say: Let us pass this conference report and get on to other business.

Mr. KYL. Mr. President, the Line-item Veto Act is a good bill, but one that should not be necessary. Congress should have the good sense to spend taxpayers’ hard-earned money wisely, for the benefit of all citizens.

Mr. President, British historian Alexander Tyler once said:

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves large sums from the public treasury. From that moment on, the majority always vote for the candidates promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship. The history of the world’s greatest civilizations has been 200 years.

Alexander Tyler makes an excellent point, but perhaps the American people have wisdom and foresight that he could not understand. The American people recognize the burden that a spendthrift government can impose on them, their children, and their grandchildren. And that is why they have been so persistent in demanding changes. Demanding less Government spending, lower taxes, and a leaner Government—before Tyler’s prophecy comes to pass.

The American people began to change the face of Congress in the last election. And of election, fiscally responsible individuals to the Congress is probably the most powerful and effective weapon that the American people can wield in the fight against pork-barrel spending. It is more effective than a line-item veto can ever be.

The line-item veto itself is not a cure-all. It will not result in a balanced budget. There is not enough pork that can be deleted from the budget to accomplish that. But it is properly exercised by the President, it can make it easier to get to balance.

Make no mistake about it, this bill will shift a great deal of new power to the President. I do not relish that prospect, because the power that goes to the President is great. He can use the veto power to reward or punish Members of Congress, depending upon whether they support or oppose other policies of his administration.

Most Presidents, however, will be responsible about how they use this awesome new power. That is because all eyes of the American people will be on the President if he abuses it, or if he fails to properly delete wasteful spending from appropriations bills. By signing this bill into law, President Clinton will be accepting significant new responsibilities from the American people to safeguard their hard-earned tax dollars. I have no doubt that they will hold him accountable if he fails to use the new power wisely.

Mr. President, just a few weeks ago, the nonpartisan taxpayers’ organization, Citizens Against Government Waste, released the 1996 Congressional Pig Book Summary. The good news is that the organization certified that, in 1995, Congress produced the first pork-free appropriation bill ever—the legislative branch appropriations bill.

Unfortunately, however, not all of that good news was good; there is one reason why the line-item veto is still necessary. Citizens Against Government Waste found a total of $12.5 billion in pork-barrel spending in eight other fiscal year 1996 appropriations bills that have been signed into law. Among the projects that the group identified were rice modeling at the Universities of Arkansas and Missouri; shrimp aquaculture; brown tree snake research; the International Fund for Ireland; and the Iowa communications network, to name a few.

These are the kinds of projects that are likely to be the target of a line-item veto, projects that are typically
hidden away in annual spending bills. They're enough to demonstrate the ability of certain legislators to "bring home the bacon" and curry favor with special interest groups back home. But, they don't amount to enough to cause Congress as a whole, especially when the President has the authority to veto a bill or prompt the President to veto a bill and bring large parts of the Government to a standstill.

The line-item veto is designed to bring accountability to the budget process. By forcing the President to accept wasteful and unnecessary spending in order to protect important programs, it puts the onus on special interests and their congressional patrons to prove their case in the public arena. It subjects projects with narrow special interests to a more stringent standard than programs of national interest. The special interests would have to win a two-thirds majority in each House. Programs of national interest would merely require a simple majority.

That is the shift in the balance of power which the line-item veto represents. It is a shift in favor of the taxpayers, and that is why I intend to support it. If the Government were running a surplus, the taxpayers might be willing to tolerate some extra projects. But the Government is running annual deficits that are far too high, and there is no extra money to go around. There is not even enough to fund more basic needs.

Mr. President, when you find yourself in a hole, the first rule of thumb is to stop digging. Let us begin climbing out of the hole we have dug for ourselves and future generations. Let us pass the line-item veto.

EMERGENCY SPENDING PROVISIONS

Mr. FEINGOLD. Mr. President, will the Senator from Arizona yield for a question?

Mr. FRIST. Mr. President, the Senator from Arizona stated in his opening statement on this measure that the emergency spending reforms he and I were able to include in the Senate-passed version were dropped in the conference committee version of this line-item veto measure.

Our provision limited emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than recissions of budget authority or reductions in direct spending—in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

The provision also featured an additional enforcement mechanism to add further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequencer process for direct spending and receipt reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

I know he shares my disappointment that those provisions were dropped. Is it his understanding that though the emergency spending provisions were dropped from the final conference version of the line-item veto measure, the original intent of the Budget Committee staff will work with our own staffs to bring this matter back on an appropriate legislative vehicle?

Mr. MCCAIN. Mr. President, that is my understanding, and I look forward to working with the Senator from Wisconsin and the Budget Committee staff to address any technical concerns there might be with the emergency spending provisions.

Mr. FEINGOLD. I thank my friend from Arizona.

As we consider ways to empower the President to veto unjustified spending through this new authority, it only makes sense to enact reforms that prevent those abuses from passing in the first place.

The emergency spending reforms that Senator McCain and I introduced as legislation, and included in S. 4 as it passed the Senate, did just that.

Our emergency spending legislation would have forced the House by an overwhelming vote and I am hopeful that we will soon be able to overcome the resistance to this provision and have it enacted into law as well.

And though I regret our reforms were not included in this proposal, I look forward to working with the Budget Committee and my good friend from Arizona to iron out any drafting problems, and find an appropriate vehicle for this needed reform.

Mr. FRIST. Mr. President, I rise today in strong support of the line-item veto. No single legislative procedure will do more to curb wasteful Government spending than this powerful legislative tool. For years, Washington has spoken about this idea without acting. I am proud to be a Member of the Congress that will make the line-item veto a reality.

For years, the Federal Government has demonstrated an appalling lack of fiscal responsibility. Today, our national debt is over $5 trillion—more than $19,000 for every man, woman, and child in America—and is growing at a rate of $600 million a day. Entitlement spending—the two-thirds of the Federal budget that is growing so fast that it will consume all of our tax dollars in just over a decade. Meanwhile, the other third of our budget, discretionary spending, is riddled with unnecessary pork-barrel projects. Basically, it is too easy to spend and too hard to save here in Washington. We owe it to the American taxpayer to impose fiscal discipline on Federal spending habits.

The line-item veto reforms our institutionalized habit of growing and overspending. Here’s how it works. The President already can veto spending bills passed by Congress. S. 4 gives the President the authority to veto specific spending items—including appropriations, new entitlements, and limited tax benefits. The President’s cancellations will stand unless Congress passes a bill restoring the spending and providing the two-thirds support necessary to override any additional vetoes.

Some people argue that S. 4 shifts too much power from Congress to the President. However, I believe the President needs a tool to help control Congress’ insatiable appetite for spending the taxpayers’ money. We must give our Chief Executive the power to strike discreet budget items which do not serve the national interest. In fact, I am so convinced that the line-item veto is the right thing to do that I am willing to give this power to the President of another political party.

While the line-item veto alone cannot balance our budget or pay off our national debt this one legislative tool could perform radical surgery on Federal spending. The General Accounting Office (GAO) estimated that a line-item veto could have saved $70 billion in wasteful spending during the last half of the 1980’s. That $70 billion could provide a $250 tax cut for every family for 7 years. Taxpayer watchdog group Citizens Against Government Waste identified an additional $43 billion in procedural pork spending in the last 5 years, spending which circumvented normal budget procedures. Imagine how a line-item veto could have saved a significant portion of that money.

But we don’t need the GAO or a taxpayer watchdog to tell us that the line-item veto works. We only need to ask the 43 of our Nation’s Governors who use this tool on a regular basis. In fact, when President Clinton was Governor of Arkansas, he used the line-item veto 11 times. If the States can control spending and balance their budgets, the Federal Government should follow their example.

Mr. President, I look forward to the day when I can tell my three sons, my fellow Tennesseans, and every American that they have inherited a country free of debt. I look forward to the better job opportunities and higher standards of living they will enjoy. And at that moment, I hope I can look back at the day we passed the line-item veto as the day a bipartisan group of legislators took a significant step down the road to fiscal accountability. I strongly urge my colleagues to support this bill.

THE LINE-ITEM VETO: STILL AN ILL-CONSIDERED PROPOSITION

Mr. PELL. Mr. President, when the line-item veto was last before us, I said that I found myself in opposition both on philosophical as well as practical grounds.

I must be quick to acknowledge that previous opposition on philosophical grounds have been met. The conference committee credit for replacing the cumbersome and unworkable scheme of separate enrollment in the Senate version of the
legislation, with at least a workable plan for enhanced rescission authority.

But my underlying philosophical reservation remains. As I said when the bill was last before us, I simply believe that Congress should be extremely cautious about giving the power of the purse to the executive branch. I hold this view on the basis of my Senate service under eight Presidents of both parties during my 35 years in the Senate, and notwithstanding the cordial relationships I have had with all of them.

I continue to believe that the executive branch, which under our Constitution, quite properly is a separate power center with its own agenda and its own priorities, inevitably will seek and use any additional power to achieve its objectives. And the pending grant of veto power over specific items, I fear, will surely give even the most benign and well-motivated Chief Executive a new means for exercising undue influence and coercion over individual members of the legislative branch.

I hold this view, notwithstanding my loyalty and respect for President Clinton, whom I know would use such a grant of authority wisely. But it is the balance of institutional forces that must be considered. It is in this connection that I have been well served by the erudition of the senior Senator from West Virginia [Mr. Byrd], who has reminded us so eloquently of the need to protect the legislative prerogatives in question. I commend him for his great service to the cause of constitutional government.

Mr. LEAHY. Mr. President, I have a number of serious concerns and questions about the conference report on the line-item veto, S. 4.

First, the line-item veto encourages minority rule by allowing a Presidential-item veto to stand with the support of only 34 Senators or 146 Representatives. This is not majority rule. We are adding to the already supermajority requirements, which I thought were dismissed during the balanced budget amendment debate.

By imposing a two-thirds supermajority vote to override a Presidential-item veto, the line-item veto undermines the fundamental principle of majority rule. Our Founders rejected such supermajority voting requirements on matters within Congress’ purview.

Alexander Hamilton described supermajority requirements as a poison that serves to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt juncto to the regular deliberations and decisions of a responsible majority.

Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion.

Second, supermajority requirements in any line-item veto bill is overkill. I am afraid that this bill will sacrifice many worthy projects on the altar of supermajority votes.

But supermajority power is not needed to strike wasteful line items. The purpose of any line-item veto bill is to give the President the power to expose wasteful line items to the sunlight of a congressional vote.

A veto to override could kill any wasteful line item while still allowing Members to convince their colleagues to vote for a worthy line item.

In addition, these supermajority requirements hurt small States, like my home State of Vermont, by upping the ante to take on the President.

Under the line-item veto, Members from small States would have to convince two-thirds of Members in each House to override the President’s veto for the sake of a project in another Member’s district.

With Vermont having only one representative in the House, why would other Members risk the President’s wrath to help us with a project vetoed by the President?

Another question mark under this conference report is tax breaks.

Under the bill, the President has authority to veto only limited tax benefits, which are defined as providing a Federal tax deduction, credit, or concession to fewer than 100 beneficiaries.

Any accountant or lawyer worth his or her high-priced fee will be able to find more than 100 clients who can benefit from a tax loophole. If more than 100 taxpayers can figure out a way to shelter their income in a tax loophole, the President would not be able to touch it. The bigger the loophole in terms of the number of people who can take advantage of it, the safer it is.

The definition of limited tax benefit sounds like a tax loophole in itself.

Would the President have line-item veto authority over the capital gains tax cut described in the House Republican Contract With America?

It certainly is estimated to lose revenue—this is found in the Joint Committee on Taxation has estimated that the contract’s capital gains tax cut would lose almost $32 billion from 1995 to 2000. Yet somehow I think a capital gains tax cut would fall beyond the scope of a limited tax benefit under this legislation.

Why do we not quit this shell game. Just state in plain language that the President has line-item authority over all tax expenditures.

I believe that this President could tread carefully when expanding the fiscal powers of the Presidency. The line-item veto will change one of the fundamental checks and balances that form the separation of powers under the Constitution—the power of the purse.

The line-item veto hands over the spending purse strings to the President, whose cuts would automatically become effective unless two-thirds of both Houses of Congress override the veto.

The President would have no burden of persuasion while a Member would have the Herculean task of convincing two-thirds of his or her colleagues in both Houses to care about the vetted project.

It is truly a task for Hercules to override a veto. Just look at the record—the more than 2,900 Presidential vetoes in our history, Congress has been able to override 106 of them.

As noted so well in the Federalist Papers: “the accumulation of all powers, legislative, executive, and judiciarv, in the same hands, whether of one, a few or many, and whether hereditary, elective, or self-appointed, may justly be pronounced the very definition of tyranny.”

Let us not try to score cheap political points at the expense of over 200 years of constitutional separation of powers.

Mr. REID. Mr. President, I rise in opposition to the proposed Line-Item Veto Act. The conference report does more to upset the balance of powers than any legislation this body has considered this year. Why is this bill about curbing expenditures. It is body abrogating constitutional responsibility. It is about ceding unbridled spending authority to one individual in one branch of the Government. It should not be called the Line-Item veto Act. It should be called the Presidential Spending Empowerment Act. It grants unprecedented amounts of spending power to one individual. Proponents attack discretionary spending as though this were the cause of a deficit. They know better. Discretionary spending becomes a smaller part of the Federal budget every year. The days of pork-barrel spending have long since passed. This concept is replaced by yielding the President authority to punish his enemies.

This is an invitation to unfettered politicization of the Federal spending process. It is exactly this kind of undue influence that the founders sought to avoid through separation of powers doctrine. It does not take the imagination of Machiavelli to see how this power could be used for nefarious purposes. This is particularly true in an election year. Look at the possible scenarios that could be in store. This would give a future incumbent President quite a political weapon. Perhaps it could be used to entice the endorsement of Members from key primary States. A President could agree to not cancel an item of new direct spending to secure the endorsement of a candidate who would be most likely to endorse his candidacy. Conversely, he could punish a Member for deciding not to support him. Even in a non-election year, this unfettered power could be unleashed for the sake of political purposes. Why? Because this legislation creates an implied threat against all Members of Congress. This implied threat is vested in one politician. It can be exercised on any piece of legislation this body considers.

Moreover, the conference report is not what is said, it is what is not said. It attempts to remove politics from the process. Unfortunately, it will have the exact opposite effect that its
supporters intend. It injects the rawest form of power politics into the Federal spending process.

The conference report creates enormous political arsenal and endows it in one individual. Its proponents say it will be against unnecessary spending. But it's really an axe that can bludgeon any legislator who dares to disagree with a President. This is not just about concentrating unprecedented amounts of power in one individual. One branch of government, obviates it is about giving that individual a lethal political weapon. We are giving that individual license to use this weapon in whichever manner he sees fit.

Proponents of the conference report say this measure can be used as a surgical scalpel. I believe it more closely resembles a hovering guillotine. It is not just congressional spending authority that will be infringed. Our third branch of government, the judiciary, will have its independence placed in jeopardy.

I would encourage all Members to read an excellent piece on this issue in today's New York Times. It sets out some interesting arguments as to why the legislation is opposed by the judiciary. Judges are beginning to make their opposition known. Indeed, the Judicial Conference of the United States has spoken out against this measure. It said such authority posed a threat to the independence of the judiciary by giving a President power to put pressure on the courts or retaliate against judges who vetoing items in judicial appropriations bills.

Judge Gilbert Merritt, chief judge of the Court of Appeals for the Sixth Circuit opposed this measure. Judge Merritt said it was unwise to give the President authority over the judicial budget because the executive branch was the biggest litigant in Federal court. I believe Judge Merritt is correct. The potential for conflict is tremendous. All of us, at some point or another, have likely found ourselves in profound disagreement with a judicial ruling. But we realize there is a process in place for disagreeing with clearly wrongheaded decisions. We introduce legislation, hold hearings, and attempt to persuade our colleagues of the proposal's merits. None of us, individually, has the ability to influence a judicial decision we disagree with.

The line-item veto endows in one individual the tools with which to immediately demonstrate displeasure. Why don't we simply eliminate the lifetime tenure provisions from article III. Judges have good reason to fear this measure. They should be on notice that all future decisions could be subject to political appeal. The Supreme Court may ultimately have the final say but the President can ensure whether it has the paper on which to say it.

This political weapon can be exercised in many different ways. The executive branch may be litigating one of its policies in Federal court. This happens all the time in every administration. Consider the conflict that could arise if the administration receives an unfavorable ruling from a particular court. Now, the President could employ the power of the bully pulpit or appeal to Congress to handle the matter legislatively. If the President were using a weapon, he could also excise the appropriation for that particular court. This is not meant to cast aspersions on our future Presidents. It merely reflects the political reality that the Framers recognized when they wrote the Constitution.

Process for considering item vetoes binds this body to new rules that are overly burdensome and unduly restrictive. It will be very disruptive to the consideration of substantive legislative matters. We don't even know how this will play out and we are today being asked to accept a 10-hour time agreement. A large number of line-item vetoes may deserve debate. Are we all willing to enter into a 10-hour time agreement today? What kind of chaos are we binding ourselves to?

There is a great deal of thought and consideration that goes into writing an appropriations bill. Typically, the President, if he chooses to use it, will have the full scope of the White House counsel throughout this process. It is not as if the administration reads appropriations bills for the first time upon their passage. Administration officials are actively involved in every step of the way. Why not let the White House administration to write the measures and schedule up or down votes in both bodies.

Presidential veto of targeted tax benefits was a key feature of the Senate-passed bill. The conference report attempts to define tax benefits by counting the number of beneficiaries. At best, this is disingenuous. A tax benefit is defined as an income tax deduction, credit exclusion or preference to 100 or fewer taxpayers. The conference report excludes tax breaks that target persons whose interest is not its own. Interest providers are beginning to define the scope of the veto to appropriations or new direct spending that impacts 100 or fewer beneficiaries? Perhaps this was added in conference to gain the support of tax lawyers. Any good tax lawyer will be able to find an extra person or two to meet the sufficient number of beneficiaries.

I believe that is why this body explicitly rejected the concept of numerical beneficiaries earlier. Different types of tax benefits need different arguments. Interestingly, other taxes such as estate and excise taxes would not be subject to a Presidential recission. The report also excludes tax breaks that target persons owning the same type of property. Thus a tax benefit to owners of Rolls Royces were not subject to a veto since all persons owned the same type of property.

Today, less than 7 percent of vetoes are overridden. If this measure passes, it will end come. The President needs only 34 percent of one House in order to rescind appropriations the majority of Congress has previously voted to approve.

This is an unprecedented amount of veto power to endow in one individual. This Senator contends it is an unconstitutional delegation of legislative power.

Many legal scholars claim we have little to fear because this act will be ruled unconstitutional in the courts. I do not believe that is a chance worth taking. I realize the majority party is under a lot of pressure to complete its so-called Contract With America. But in its zeal for closure is it really willing to pass these constitutional acts? Are we willing to now discount and discard the doctrine of separation of powers? And what are the consequences?

Perhaps it was best stated by the Senator's great constitutional scholar, Senator Byrd, in an earlier debate: "History shows that when the Roman Senate gave away its power of the purse, it gave away its check on the executive." As for the line-item veto of wasteful spending, Senator Byrd said it is "analogous to giving cyanide to a cold." Who are we, the benefactors of these great constitutional rights, to sit in judgment of our Founding Fathers? If they were so right then, could we be so wrong today?

Mr. BIDEN. Mr. President, I have long supported an experiment with a line-item veto power for the President. Over a decade ago, I introduced my amendment to the 1985 tax reform legislation for a line-item veto. Mr. President, not because I believed it was the right thing to do, but because I realized the President needs only 34 percent of one House in order to rescind appropriations the majority of Congress has previously voted to approve. This is an unprecedented amount of veto power to endow in one individual. This Senator contends it is an unconstitutional delegation of legislative power.

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Mr. BIDEN. Mr. President, I have long supported an experiment with a line-item veto power for the President. Over a decade ago, I introduced my amendment to the 1985 tax reform legislation for a line-item veto. Mr. President, not because I believed it was the right thing to do, but because I realized the President needs only 34 percent of one House in order to rescind appropriations the majority of Congress has previously voted to approve. This is an unprecedented amount of veto power to endow in one individual. This Senator contends it is an unconstitutional delegation of legislative power.

Many legal scholars claim we have little to fear because this act will be ruled unconstitutional in the courts. I do not believe that is a chance worth taking. I realize the majority party is under a lot of pressure to complete its so-called Contract With America. But in its zeal for closure is it really willing to pass these constitutional acts? Are we willing to now discount and discard the doctrine of separation of powers? And what are the consequences?

Perhaps it was best stated by the Senator's great constitutional scholar, Senator Byrd, in an earlier debate: "History shows that when the Roman Senate gave away its power of the purse, it gave away its check on the executive." As for the line-item veto of wasteful spending, Senator Byrd said it is "analogous to giving cyanide to a cold." Who are we, the benefactors of these great constitutional rights, to sit in judgment of our Founding Fathers? If they were so right then, could we be so wrong today?
Mr. President, I want to take a few minutes to explain the difference between the version I have consistently supported—the one, I must add, that we passed out of the Senate last year—and the version here before us today. I have long held that separate enrollment approaches, in contrast to the enhanced rescission plan before us now. But what do those fancy titles mean?

The separate enrollment approach to the line-item veto is the one that I have supported and the one which most people have in mind when they think of a line-item veto. Quite simply, separate enrollment requires that the Congress take each item in the spending bills we pass and send them to the President separately, instead of lumped together as we do it now.

We used to send individual spending items to the President separately, back before the Civil War. I believe that the separate enrollment approach would restore a relationship between Congress and the Executive that was upset by the practice of lumping those items together. To that extent, it would be less disruptive of the constitutional relationship between the branches of our Government.

The way we do it now, we send the President every item for national defense, for example, in a single spending bill. If the President believes that there are too many tanks, or too many missiles, he must veto the entire national defense bill to cut out the spending that he doesn't want.

We write bills that way on the bet that the President will accept additional spending as the price of getting our national defense or other basic needs paid for.

And, we must admit, Mr. President, we write bills that way because it serves the needs of individual Members of Congress to have their special projects—that on their own merits, in the cold light of day, could not muster a majority vote—to have those special projects pulled through the process by the locomotive of essential legislation.

By sending each item of spending to the President as individual bills—by separate enrollment of each item—Congress would expose each of those items to the scrutiny it deserves, would remove the camouflage of the larger spending bills.

The modest hope is not that the President will, willy-nilly, cut and slash special-interest items. Rather, that those of us who have promoted this idea is that Members of Congress—confronted by a President with this new power—would choose not to include those special interest items that cannot pass the threshold of public scrutiny.

That is essentially the version that we passed out of the Senate last year, Mr. President, with one important addition. We included special interest tax breaks among the items the President could veto. Those tax expenditures lose money from the Treasury just as surely as any spending program.

And as for those items vetoed by the President, the normal constitutional procedures would apply—two-thirds majorities of each House would be required to override the spending that the President has cut.

I have supported that approach as the one that least disturbs the constitutional relationship between the branches of government, particularly on the crucial issue of the power of the purse.

I was heartened when that was the version passed by the Senate last year. By the same token, Mr. President, I am less happy about the version before us today. Because I am still convinced that we need to improve our capacity to discourage if possible, and to cut out if necessary, any wasteful, special-interest spending, I will vote for this version.

The line-item veto bill before us today provides for a procedure that is more correctly known as enhanced rescission. It greatly transforms a Presidential power that will expose congressional spending to a higher level of scrutiny than ever, waste in one program will not be allowed to subsidize another program, the President will, willy-nilly, cut and slash special-interest spending.

Nevertheless, I will vote for this line-item veto. This is a powerful new tool in the hands of the President. That is why I have supported it, and why I wish we had experimented with the line-item veto—that we should set a date certain on which the legislation will sunset. This line-item veto legislation provides for an 8-year experiment, after which it will terminate unless Congress agrees that the experiment has produced more benefits than costs.

This is longer than I think is necessary—particularly if we discover unintended consequences—but it does provide for two Presidential administrations over which to test the merits of this proposal.

I am more disappointed that the President's ability to cut special-interest tax breaks has been severely weakened in conference with the House. The conference provision would apply to only a few tax items—in fact, with clever tax lawyers on the job, it could well apply to virtually no tax breaks.

So, Mr. President, like so much legislation we consider and that becomes law, this line-item veto bill advances a worthy cause—cutting out waste and special-interest spending—but not in the ways that all of us may agree with. As someone who has for years advocated the separate enrollment method of the line-item veto, I wish we had chosen that route.

But there is a more fundamental question—Will we give the President a power that will expose congressional spending to a higher level of scrutiny? Will we take an additional step to prevent the inclusion of special-interest spending in our appropriations bills? I am willing to take that step, Mr. President, and will vote for the conference report.

Mr. SMITH. Mr. President, I rise in strong support of the line-item veto bill before the Senate today, and urge my colleagues to pass this overdue measure. As a long-time opponent of pork-barrel spending, I am glad we are taking this first small step toward fiscal sanity.

When I attend a town meeting, or hold a briefing on the Federal budget, I often hear a common sentiment: "Why does Congress want to change Medi-Cal education, or whatever, when we are spending $5 million on Hawaiian arts and crafts?" It is a question that cannot be answered. Pork-barrel spending may constitute a relatively small portion of the overall budget, but it represents a very symbolic part of the budget. If Congress cannot cut the little spending items, how on Earth can we make the difficult decisions on the larger programs?

Will the line-item veto balance the Federal budget or cut pork-barrel spending? But it will help restore discipline to our budget process. It is no secret that special projects and narrow interest provisions are often included in large spending
BYRD, the line-item veto legislation colleague from West Virginia, Senator the deficit, as are many of my col-
fore the Senate today will certainly legislation. This line-item veto bill be-
hard work on behalf of this landmark MCCAIN and Senator C OATS—for their commend my colleagues—Senator
for more than a decade. It has been a cosponsored line-item veto legislation of a larger unrelated bill.
Mr. President, I have supported and cosponsored line-item veto legislation for more than a decade. It has been a long and arduous fight. I, for one, am glad that the fight is finally over. I commend my colleagues—Senator MCCAIN and Senator COATS—for their hard work on behalf of this landmark legislation. This line-item veto bill before the Senate today will certainly stand the test of time.
Mr. ROCKETT, Mr. President, I am a proponent of responsibly reducing the deficit, as are many of my colleagues. I, too, want to eliminate wasteful spending. But this conference report on the line-item veto bill is not the right way to ensure deficit reduction, responsible fiscal management in my view.
As articulated so poignantly by my colleague from West Virginia, Senator BYRD, the line-item veto legislation raises many constitutional problems and it substantially alters the balance of power devised by the Framers of our Constitution.
Before supporting such a dramatic change in the balance of powers, we need to examine it in light of what it really means to our democracy.
Giving a President broad power to cut discretionary spending concerns me in theory, but it troubles me even more to think about its potential effects in practice. A President may hastily veto substantive provisions of a spending bill, which he considers wasteful, but which really are essential programs for States or regions. One person’s perception of waste or pork may be another person’s funding for roads, schools, needed health care, or rural hospitals. A President could use a line-item veto as a political tool to intimidate a particular Member or groups of Members.
A specific example is the recent history of funding for the Appalachian Regional Commission [ARC]. Recent Republican Presidents sought to eliminate the Appalachian Regional Commission [ARC] from the budget, but a bipartisan group maintained this important program to promote economic development in some of the poorest counties of our country. The ARC provides basic funding for infrastructure and economic development.
In representing West Virginia’s interest, I do not believe that Congress should give any President free range to cut discretionary spending. Under the line-item veto, a President could veto spending for the ARC, or other discretionary programs ranging from highway projects to housing programs. It is important to note that the present system already offers a way for Virginia and other States. And I do not think Congress has duty to be excruciatingly careful when fundamental re-
our constitution over 200 years ago. I think Congress has duty to be excru-
cially careful when fundamental re-
According to the House Ways and Means Committee report, President Bush agreed to support the bipartisan line-item veto, the House Ways and Means Committee report concludes it was an important and needed legislation.

Mr. GRASSLEY. Mr. President, I am proud to have this long awaited and unique opportunity to address the Chair about a successful conference report on a line-item veto issue. Some of us have spent much of our congressional careers fighting against wasteful spending. Under present law, the Chief Executive often cannot join in the battle against waste without the risk of veto along with the extravagant. This line-item veto conference report succeeds in allowing a President to join us in weeding the wasteful programs of the people’s legislative garden.

With this line-item veto, a responsible President can attack and cancel out entire dollar amounts in appropriation bills. He may not merely reduce a dollar amount; he may only cancel it entirely. This line-item veto, a responsible President will attack and cancel out any limited tax benefits that may exist in future conference reports of future tax bills. This conference report on the line-item veto defines limited tax benefits as any tax expenditures that would both, lose tax revenues over the first 5 years, and benefit 100 or fewer persons. Congress would add a list of these limited tax benefits to the conference report as a matter of law.

If the Joint Committee on Taxation does not see any limited tax benefits, then the Chief Executive may look for the limited tax bene-
He would use our same objective measure outlined in the conference report:

Having found waste, a responsible President may effectively take out his ruler and draw a line through any of the other line-item veto legislation. After operating a line-item veto, the President would send a special message back to Capitol Hill outlining his actions. Both Houses of Congress would consider the line-item veto for the line-item veto legislation.

The operative Senate committees may then report out a disapproval bill containing the vetoed line-item veto legislation. The Senate would listen to only 10 hours of debate and amendments before voting on a disapproval bill. Thereafter, the President may again see the same legislation because the process would simply start over. The President would then have the Executive powers offered by the line-item veto conference report, and article 7 of the Constitution:

Like the Constitution, this line-item veto conference report has many proud cosigners. I want to thank the chairmen and ranking members of the Com-
in our tireless efforts to stamp out the Government waste of taxpayer capital. This is a great day indeed. I urge all of my colleagues to join in support of this conference report on the line-item veto.

Mrs. MURRAY. Mr. President, I take the floor to oppose the so-called line-item veto legislation before us today. I regret I cannot support this conference report, but unfortunately this report is careless, highly questionable and possibly unconstitutional. President, I support the line-item veto proposal submitted by Senator BYRD. His expedited rescission proposal was well-written and made good common sense, but unfortunately, it was not accepted by the Senate.

I know all too well the abuse that can arise through broad, sweeping line-item veto authority. Mr. President, I served in the Washington State Senate prior to coming to the U.S. Senate. My home State arms its executive with line-item veto authority, and while serving in the State Legislature I witnessed, first hand, the horse trading that results by giving the State's executive this authority.

In my home State, the line-item veto does not veto spending. Rather, it encourages more spending. It puts legislators in the position of having to accept the Governor's priorities in order to make sure their legislative priorities are not vetoed by the Governor. As you know, Mr. President, this debate essentially was spawned out of our desire to reduce Government waste and balance our Nation's budget deficit. I do not think there is a single Member in this body that does not want to reduce the Nation's budget deficit. However, I have great difficulty turning over my responsibilities and Congress' fiscal responsibilities to the executive branch. Mr. President, the line-item veto is a budget gimmick, and it simply passes the power of the purse from Congress to the President.

Since 1993, we have cut the Nation's budget deficit in half. This is commendable work. However, it was difficult work that required tough decisions. Congress and the Clinton administration chose to reduce and cut hundreds of Federal programs. This was not easy, but it is what we were elected to do. We will get our fiscal house in order once we set our minds to it. We do not need a line-item veto to encourage. We should not shrink from our constitutional responsibilities. We should accept the challenge.

Mr. President, earlier today I listened to the elegant words of Senator BYRD. Senator BYRD is a great orator, respected legislator and an excellent teacher—especially when it comes to the constitutional issues surrounding the line-item veto. I hope my colleagues listened to his words, because there are some real constitutional issues we have to be addressed because of this legislation.

This legislation disrupts the delicate balance of powers laid out by our Founding Fathers. It shifts an enormous amount of power to the President of the United States—directly conflicting with Congress' constitutional duties. And, as written, this legislation gives the President and a one-third minority in one House the power to veto legislation Congress approved. It turns the idea of checks and balances on its head.

Mr. President, I also have grave concerns with the language pertaining to targeted tax benefits. This language is so wordy that ultimately prohibits the President from vetoing new targeted tax benefits. If we want to grant the President a line-item veto, let us at least do it the right way. Let us at least let the President strike new tax expenditures.

Moreover, I urge all of my colleagues from small States to read this legislation carefully, because as it is written, the President has the power to strike very specific language including charts and graphs. For instance, the President would have the power to strike funding for a single State if an appropriations bill or report includes a chart breaking out spending per State. We know the President is not going to strike funding for small States, but what keeps the President from cutting funds in smaller States?

Mr. President, this again reminds me of the horse trading I experienced in my home State legislature. This legislation puts legislators in the awkward position of having to protect constitutionally approved legislation from the President's veto pen—legislation that was debated, considered and eventually agreed to by Congress—and agreed to by the President, and no one can anticipate how the President would veto such a bill, and unless two-thirds of the members of both Houses were to override that veto, the President would retain this extraordinary new power.

Mr. President, though the continuing budget deficits justifying granting the temporary authority to the President on a trial basis, I do have serious concerns about this proposal, which I want to highlight, and will continue to monitor. Possibly my biggest concern is the effective threshold of two-thirds vote in each House to overcome this new expanded veto authority. That kind of threshold is provided in the Constitution only for specific taxes, and extending that authority for individual lines in a bill may be too problematic. There are many uncertainties in this new authority that we are providing the President, and no one can anticipate all the potential abuses that might flow from this new authority.

Though we have no experience at the Federal level, those Members who have served in State government may have seen the use of line-item veto authority at the State level. Indeed, much of the support for a Federal line-item veto stems from the State experience. But, Mr. President, few other States, if any at all, have witnessed the abuses of line-item veto authority that we have seen in Wisconsin. That abuse has been bipartisan—Governors of both parties have used Wisconsin's partial veto authority in ways it’s safe to say no one anticipated when that authority was first contemplated. For example, Mr. President, Wisconsin's current Governor, Governor Thompson, has used the veto authority not only to rework entire laws to increase spending and increase taxes.

The two-thirds threshold compounds the uncertainty about possible abuses of this legislation was flawed. I was willing to support that experimental line-item veto authority to provide the President with some additional authority to eliminate inappropriate spending.

I do not believe the line-item veto is the right answer to any of the problems, or even most of the answer, but it certainly can be part of the answer.

The legislation before us today, too, is flawed, but I am willing to give this new mechanism a chance to work, and to see if it can solve our future problems after several years. Like the version of S. 4 that passed the Senate, this measure also has a so-called sunset clause which terminates the expanded veto authority unless Congress takes action. If the Congress decides, which it may well do, that we have gone too far in delegating authority to the President, the sunset clause will make it much easier to terminate the experiment, if necessary. The burden will be on those who want to retain the authority.

Moreover, I urge all my colleagues to join in support of my amendment to the legislation. My amendment would have the power to strike funding for a single State or an appropriations bill or report includes a chart breaking out spending per State. We know the President is not going to strike funding for small States, but what keeps the President from cutting funds in smaller States?
by making it that much more difficult for Congress to respond to that possible abuse.

Mr. President, another serious flaw in this measure are the provisions relating to tax expenditures. They are far from the language in the Senate-passed version of S. 4 relating to tax expenditures has been weakened significantly, essentially blunt this authority as a tool for restraining that area of spending that is among the largest and fastest growing, and that includes federal subsidies to some of the wealthiest individuals and corporations in the world.

Mr. President, tax expenditures contribute greatly to pressure on the deficit, and if any area should be subjected to the scrutiny of line-item veto authority, it is this one. The failure of this proposal to target abuses in this area is a serious flaw, and I regret the special interests that generated some of these abuses in the first place are exempt from this new Presidential authority.

Mr. President, I was disappointed, too, that the emergency spending reform the senior Senator from Arizona [Mr. McCain] and I incorporated into the Senate-passed version of S. 4 did just that, and I regret we were not included from this measure. That provision limited emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than rescissions of budget authority or reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

The provision also featured an additional enforcement mechanism to add further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequester process for direct spending and receipts measures, for any emergency appropriation bill if the bill includes extraneous items other than rescissions of budget authority or reductions in direct spending.

As we consider ways to empower the President to veto unjustified spending through this new authority, it only makes sense to enact reforms that prevent those abuses from passing in the first place. The emergency spending reform that Senator McCain and I included in S. 4 did just that, and I regret they were not included in this proposal.

I understand, however, that commitments have been made to revisit this provision in separate legislation. The emergency spending legislation previously passed the House by an overwhelming vote and I am hopeful that we will soon be able to overcome the resistance to this provision and have it enacted into law as well.

Mr. President, the basic structure of this particular line-item veto authority also raises problems. Though it may be less cumbersome than the so-called separate enrollment approach envisioned in S. 4 as it passed the Senate, the new enhanced rescission approach could provide the President with more rescission authority than was intended.

In particular, the shift from Congress to the President in defining the precise material to be vetoed is potentially significant. Instead of vetoeing or approving individuals minibills, as under the separate enrollment approach, the President decrees certain actions in direct spending bills that reductions in which effectively are given statutory authority because they are surmounted only by enactment of a disapproval bill.

The scope of these Presidential decrees are limited by the restrictions set forth in this bill, and though the intent of those proposing this new authority may be clear enough in their own minds, there cannot be one hundred percent certainty about the true scope of authority until it is actually put into effect. The unintended or even unimagined consequence of this new authority may be its biggest flaw.

This is just what happened in my own State. It is difficult to argue that the partial veto authority that I and my state's Republicans were granted by our state constitution was intended to be interpreted by future governors to be able to veto individual words within sentences or even individual letters within words, yet that is precisely what happened.

Successive court decisions gradually expanded the partial veto authority for Wisconsin's Governors, to the point that whole new laws could be created with the veto pen.

Mr. President, would the temporary authority which this measure grants the President be abused in this fashion? Though I do not believe it will, we cannot be certain about what some court might rule in interpreting the restrictions spelled out in the bill.

In some instances, the proposal before us allows the President to exercise his new authority based on committee reports or the statements of managers, neither of which have the force of law, and neither of which have ever been the subject of a vote in either House. That is troubling.

I am disturbed, too, by the language in this proposal regarding so-called items of direct spending. In defining these items, the measure refers to specific provision of law.

Mr. President, this definition is not at all self-evident. Is a provision of law a numbered section, or can it be an unnumbered paragraph as well? How small a unit of entitlement authority does the proposal intend to expose to the new Presidential authority? For example, if a clause in a sentence defines new entitlement authority in some way, can that clause be canceled without taking the entire sentence with it? Or can new entitlement authority be limited by the selective cancellation of one word if doing so meets the other stated formal requirements of the measure?

The proposal does not address that issue. It only mentions the words “specific provision of law” without further definition.

As someone who has seen just how creative a Governor can be with partial veto authority, this is a matter of serious concern to me.

Mr. President, there are a few safeguards built into this proposal that provide some comfort in this regard. As I noted before, the new authority sunsets in 8 years, so whatever happens in 8 years amounts to an 8-year trial period in which we can monitor this new Presidential authority, and we will. Eight years represents two complete Presidential terms of office, and several election cycles within both Houses, ensuring a diverse set of partisan combinations under which this new authority can be tested, and enhancing the possibility that it will be used under different circumstances and with different ideological intent.

It should be noted that this new authority is established by statute, not as part of the Constitution, thus the measure avoids magnifying these potential problems by making a permanent change to our basic law. To the contrary, that Congress can selectively control this new authority in subsequent statutes, even prior to the expiration of the proposal before us, the statutory approach to the line-item veto or enhanced rescission authority is much less restrictive than a constitutional amendment.

Nevertheless, Mr. President, we cannot be certain this proposed authority will be used, no matter how carefully we draft the restrictions on that authority. Those who support this measure bear a special responsibility in this regard. And to that end, should this measure become law, I intend to establish a regular review process to monitor how the new authority is used, how it is misused, how much deficit reduction is produced, and lost opportunities for deficit reduction.

Though temporary, this delegation of authority is significant, and close and continuing scrutiny is warranted, even necessary.

Mr. President, the debate we have had on this issue for over a year has been instructive for me. For some, the passage of a line-item veto authority for the President will only mean they can scratch it off a list, and move on to another issue.

But this issue does not end with our vote, it begins.

We are about to embark on an important experiment. Whether for the benefit of the country and our democratic institutions remains to be seen, but I believe it is an experiment worth performing.

I congratulate the senior Senator from Arizona and the Senator from Nebraska [Mr. Exon] for their work on this measure. I thank them especially for their past efforts on behalf of the amendment I offered to clean up the emergency appropriations process.
Though it was not included in the final version of this proposal, I very much appreciated their courtesy, and I look forward to working with them to find another vehicle for that worthy reform.

I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, our system of government is based on a separation of powers and checks and balances. That is the way the Founding Fathers structured it, and it is a system that has fostered America's greatness for over 200 years. Yet, this bill would fundamentally change and unbalance that system by transferring power from Congress to the President.

Some argue that this bill is unconstitutional. In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, stated that he fears that this bill will violate the separation of powers. He writes, "The doctrine of separation of powers rests on the premise that the judiciary is a neutral and independent body to the disapproval bill, it would take two-thirds of the Members in each Chamber to override the President's veto. Since we have not even been able to pass a budget this year, I tremble to think what additional steps to the process will do to Congress' ability to pass a budget, and it is a system that will have a high impact on the level of discretionary spending, which is clearly not one of the major causes of the budget crisis the Federal Government is facing.

I served on the Bipartisan Commission on Entitlement and Tax Reform. If we do not act, by the year 2022 entitlement spending will outstrip revenues. So discretionary spending could be cut to zero and still not solve our problems. Domestic discretionary spending has not grown as a percentage of the GDP since 1964. We had a balanced budget. Domestic discretionary spending comprises only one-sixth of the $1.5 trillion Federal budget, and that percentage is steadily declining. In practice this bill will have a minimal impact on the deficit. Yet this bill will have a high impact on the level of the public's cynicism because it will not solve our country's budget crisis. Congress is already having difficulty passing its 12th continuing resolution and the American people already have doubts about Congress' ability to pass funding measures. To reaffirm our commitment to the American people's priorities, we should remind ourselves of what we swore to do when we entered office: to uphold the Constitution. This line-item scheme violates the philosophy of that document.

Spending authority rests primarily with Congress because our Nation's Founders thought that that was the best small "d" Democratic thing to do. 535 Members of Congress by definition are closer to the people than the President. Members of Congress are elected from all over the country reflecting a range of values; they are urban or rural. Can one executive reflect the needs of our Nation's varied constituencies better than a Member of the House who has to run every 2 years? The President, as stipulated in the Constitution can only face the people once, and a few of those times is before he takes office.

Part of our Nation's success is due to our healthy mistrust of the centralization of authority. The Founding Fathers feared the federal system like France. They built a country based on a union. As Jefferson once said, "the way to have good government is not to trust it all to one, but to divide it among the many, distributing to every one exactly the functions he is competent to perform." The Founders thought that Congress was competent to legislate our spending bills, not the executive. More than 200 years of success is hard to argue with. All know, after several months of work to get a bill signed into law. Under current law, the House and Senate can pass a bill and then send it to conference where the differences between the House and Senate versions of the bill are resolved. Often times conferees spend hours, even days and weeks, working to resolve differences, so that both Houses can support the end product. This can be a delicate proceeding, calling for compromise and flexibility.

Upon completion of conference the House and Senate vote on the conference report and send the bill to the President for signature. Under this legislation, if the President disapproves of the bill, he can then decide to strike out, for instance, specific spending provisions in an appropriations bill. Under this bill, the President would also have the power to line-item out items that are listed in graphs, tables, or conferences, and could move the delegation of authority to the President for signature. Under this legislation, if the President decides to line-item out or to disapprove the bill, it would have to be passed again. Should the President proceed to veto the disapproval bill, it would take two-thirds of the Members in each Chamber to override the President's veto. Since we have not even been able to pass a budget this year, I tremble to think what adding additional steps to the process will do to Congress' ability to pass a budget.

Clearly this is the most significant delegation of authority to the President that we have seen in over 200 years. If Congress passes this conference report we will abdicate our authority guaranteed to us under the Constitution, and give it to the President. Moreover, although this bill seeks to solve our fiscal problems, it could also serve to indirectly increase spending. For instance, if the Administrations thought it was a good idea to spend more money on a mandatory program, he could lobby the Member to support his initiative by threatening to line-item out all of the appropriations for projects in that Member's district. As my friend Ab Mikva wrote in the March 25th edition of Legal Times, "For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right.

If President, as the Founding Fathers carefully wrought our Constitution to include the doctrine of separations of powers, I believe that this conference
Mr. LAUTENBERG. Mr. President, I rise to voice opposition to this conference report. There is a right way and a wrong way to provide the President with a line-item veto. This is the wrong way.

Mr. President, I have supported a line-item veto in the past. I believe that the President should have greater authority to weed out wasteful tax breaks and unnecessary weapon systems.

But this legislation goes too far. I have three major objections to this conference report.

First, this legislation cedes too much power to the President. Under this proposal, any President and one-third plus one in the House can stop any appropriation legislation much further than the so-called separate rate enrollment bill that passed the Senate. The legislation before us, in effect, allows the President to veto report language and tables in Committee reports. This means that the President can veto programs and individual provisions.

The President of the United States already has awesome constitutional power. Look at what has happened in the past 6 months. The President vetoed a Republican budget that made huge cuts in Medicare and Medicaid to pay for tax breaks for the rich. He stopped this cold. He also vetoed a welfare reform bill that would have doomed 1.5 million children to live in poverty.

Finally, he vetoed spending bills that made deep cuts in education, environment, and community policing.

Mr. President, the Congress was never able to override these vetoes. This demonstrates how powerful the President can be when it comes to vetoing unfair budget priorities. We should not provide the chief executive with this new power on top of the tremendous power he already possesses.

Second, this legislation makes a mockery of applying the line-item veto to tax breaks. The Senate bill originally allowed the President to use the line-item veto to stop some tax breaks. These breaks were defined far too narrowly. But even this language did not survive conference.

This conference report only allows the President to veto tax items that affect fewer than 100 persons. This means that Congress can pass a tax break that only applies to people with incomes over $1 million and the President could not single this out. Furthermore, the language also exempts all persons from the tax provisions of the bill. One such exemption is property.

Therefore, if Congress passed a tax break for 99 owners of a certain type of yacht, the President could not veto this provision.

In summary, this legislation allows the President to use the line-item veto to reject provisions in education and the environment but not to reject tax breaks for millionaires. This is preposterous.

Finally, I object to the Republican political hypocrisy that went into choosing this effective date and sunset date for this legislation.

This bill was a part of the so-called Contract With America. The House passed its version of this bill on February 6, 1995. The Senate passed its version on March 23, 1995.

During debate on this legislation, I heard many Republicans in both Houses say that they were so committed to passing this legislation that they were even willing to give this power to a Democratic President. They argued how important the line-item veto was to cut out wasteful spending and unnecessary tax breaks.

Despite all of the clamoring by the Republicans, they began to drag their feet so that they would not have to give this power to President Clinton. They delayed naming conferees on the bill. They stalled on calling a meeting for the conferees. They kept dragging it out so that they could pass the fiscal year 1996 appropriations bills before the line-item veto bill became law.

During this period of inaction, the Republican majority sent President Clinton a pork-laden Defense appropriations bill that spent $7 billion more than the Pentagon wanted. This is when President Clinton really needed the line-item veto—so he could reject this $7 billion in unnecessary spending. But he did not have this tool then. The Republicans were simply playing politics with the line-item veto bill.

Now, we have both an entire new set of dates in this legislation. This bill will now go into effect on January 1, 1997 and it will last 8 years.

Mr. President, this is so blatantly political. But this is not the reason why we should reject this conference report. We should vote this down because it cedes too much power to the President and renders him powerless to fight tax breaks to the wealthiest Americans.

I urge my colleagues to reject this conference report. I yield the floor.

Mr. CRAIG. Mr. President, I rise in support of S. 4, the conference report on the Line-Item Veto Act. The Senate is now wrapping up a long-overdue and historic debate.

I note that two words in particular sound very good in this debate: conference report. There must be many Members in both the Senate and the other body who have wondered if they would ever see in their lifetime two words used in connection with the line-item veto.

I want to recognize and commend the leadership and longstanding commitment that Senators McCain and Coats have shown on this issue, as well as Chairman DOMENICI and Chairman STEVENS, for their work in shepherding this legislation through committee, earlier passage in the Senate, and now, the conference process.

I want to express my appreciation for the leadership of our distinguished majority leader, Senator Dole, in bringing this vital reform to the floor. His name was at the top of this bill when several of us first introduced S. 4 on the first day of this 104th Congress. Senator Dole has been solidly committed to passage of this landmark legislation.

There are three principal reasons to enact this kind of reform:

First, a line-item veto will promote fiscal responsibility.

This is a major step on our way toward a balanced budget. For more than 20 years, since the President was hamstrung by some of the lesser provisions of the 1974 Impoundment Control and Budget Act, congresses have ignored with impunity most of the Presidential recommendations to rescind spending authority for individual items.

Now, at least some obnoxious, unwarranted spending will be struck down.

Opponents of this bill have argued that it would lead to more spending, as Presidents use the leverage of the line-item veto to get more spending for their pet programs, or as Congress loads still more spending into bills, in hopes that at least some of it will get by the President. Alternatively, they argue that Presidents will abuse this power and fundamentally distort the balance of constitutional power between the executive and legislative branches.

But the histories of the 43 States that have given their Governors this veto authority do not bear out these dire—and purely theoretical—worries.

The experience of the States with the line-item veto, including that of my State of Idaho, has been uniformly favorable.

And, looking back over the last two or three generations, we see that State governments have increased spending and taxes at much lower rates than the Federal Government.

It is an amazing concept for some in Washington, DC, but, when you assign spending responsibility—in this case, the responsibility that comes to chief executives with line-item veto authority—they often live up to high expectations. That has been the experience of the States.

Alone, the line-item veto process is not going to be enough to balance the budget.

What we really need is to take up the balanced budget amendment to the Constitution once more, pass it, and send it to the States—send it to the people—for ratification.

I challenge President Clinton, who at least saw the light on the line-item veto, to support the balanced budget...
amendment as well, and help pass it through the Senate so we can attack the cancerous Federal debt on a larger scale.

Second, the line-item veto will improve legislative accountability and produce a more thoughtful legislative process.

Starting when this act takes effect, Congress will be forced to reconsider questionable spending items and targeted tax breaks—items that Congress would never pass in the first place if those items were considered on their own merits—items that just do not stand up under any amount of public scrutiny.

It would cast an additional dose of sunlight on the legislative process. We are all familiar with the rush to get the legislative trains out on time. That means bills and reports spanning hundreds of pages that virtually no one is able to read—much less digest—in the day or two that they are before the body.

Moreover, any more it seems that virtually every appropriations bill—even the 13 regular bills—and virtually every tax bill, is a huge bill.

Knowing that any individual provision or sunset provision is going to return to Congress one more time to stand on its own merits will promote more responsible legislation in the first place.

In short, embarrassing items will not be sneaked into these bills in the first place.

Third, a line-item veto would improved executive accountability.

There is always some concern that the line-item veto would transfer too much power from the Congress to the President.

First, I suggest that is not such a bad thing. The Framers of the Constitution never envisioned a 1,500-page, omnibus bills presented to the President on a take-it-or-leave-it basis.

This bill is the constitutional system of checks and balances—it is a correction. The system is broken. This is one of the first steps in fixing it.

The supposed blackmail that Presidents will exert over Congress as a result of the line-item veto, is nothing, compared to what kind Congress has exerted for years on the President.

A President will rarely, if ever, risk closing down an entire department in a mere attempt to take out a handful of earmarked, local benefits.

But let me also differ a little with the presumption that a radical shift of power would take place.

Many of us on both sides of the aisle have suggested, at different times, that Presidents are not always serious about the rescissions messages they send to Congress.

And, sometimes, the volume of rescissions they propose do not live up to tough talk about what they would do if they had the line-item veto.

It is time to call the President's bluff—and I mean every President, because this is a bipartisan issue.

For years now, we have seen groups like Citizens Against Government Waste and others come up with billions of dollars in long lists of pork items.

Once the President starts using the line-item veto authority, he or she will have to answer to the people if the use of that authority doesn't match the Presidential rhetoric.

Congress would not lose the power of the purse—but the President will soon be expected to use the power of the spotlight of heightened public scrutiny.

Mr. BYRD. That is the power of the purse.

The PRESIDING OFFICER (Ms. SNOWE). The majority leader.

Mr. DOLE. Madam President, I ask unanimous consent that a vote on the adoption of the conference report accompanying S. 4, the line-item veto bill, occur at 7 p.m. this evening, with the time between now and the vote to be equally divided between Senators McCaIN and BYRD.

The PRESIDING OFFICER. Without objection, so ordered.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I rise in support of the position of the Senator from Virginia, Mr. Byrd, on the line-item veto.

The PRESIDING OFFICER. Who yields the Senator time?

Mr. BYRD. How much time do I have under my control, the Chair?

The PRESIDING OFFICER. The Senator has 25 minutes.

Mr. BYRD. Twenty-five minutes. I yield 5 minutes to the distinguished Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator.

Madam President, this matter is not about balancing the budget, it is not even about the size of the deficit. This matter is about the relative power of the Chief Executive of the United States and the Congress of the United States, and would want to give it up its constitutional powers, which, by the way, I do not believe under the Constitution they have the right to do even if they wished to do that foolish thing, but why they would want to do that, I do not know.

I am particularly surprised, Madam President, that some of my colleagues on the other side of the aisle who fought so hard, for example, for star wars, why they would want to give to the President the right to veto stars wars. I happen to have been an opponent through the years of star wars, at least at the levels of expenditure—$33 billion has been spent on star wars so far. I think that is a tremendous waste.

But, Madam President, I defend the right of this body and of this Congress to set those priorities. Why you would want to give it to the President to be able to change a bill already signed into law. I think that a bill without taking out the whole bill, I do not know, Madam President.

Yesterday, there was an article in one of the Louisiana papers in which it said, "Louisiana delegation gets piece of pork." They went on to describe an appropriation that Congressman LivESTON and I had gotten in the New Orleans area because we had a flood down there of biblical proportions, over 20 inches of rain in a four-period, seven people killed, $1 billion in damage. We were able to respond to that issue.

They went on to define "pork" as that which was not in the President's budget. If the Congress exercised its power over the purse, they said, the President lost the power of the purse, then that was pork, according to this article and according to the National Taxpayers Union. But had it been in the President's budget, it would have been perfectly all right.

The idocy of that kind of formulation, Madam President, is to me, abolutely incredible. Coming from a newspaper article, it is not unexpected because that is the kind of thing that people like to read. But coming on to the floor of the Senate, saying it is the White House that knows best, it is—and we are not talking about the President; we are talking about the nameless, faceless gnomes in the White House who would be setting priorities, making policies, making the decisions about our constituents.

Our constituents would be coming to us, as in the case of this 20-inch flood. You bet I was down there after the flood, as were my colleagues, going through the homes, looking at the devastation, trying to sympathize with the people, they demanding in turn that we do something about this terrible tragedy. Our colleagues are saying, "Look, if it's not in the President's budget, it should not be part of the bill. It is up to the White House to set those priorities."

Madam President, there was nobody from the White House down in Louisiana to see that flood. They could not even on the floor of the Senate. And the Budget does not have that kind of travel budget. They did not go down and look at the individual problems of individual States. That is the job for elected representatives. That is what the re-dactors of our Constitution had in mind. That is why they put the power of the purse in the Congress.

We are closest to the people, and we respond to them. To leave all of that power in, as I say, not the President—maybe the President would decide on the floor of the Senate. But the accumulation of items in that budget would be decided by OMB. And what would be the policy of OMB? They would have to have broad policies, such as to say, if it is not in the President's budget, we are going to vote it. We are going to treat everybody alike.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JOHNSTON. One additional minute.

Mr. BYRD. I yield 1 additional minute.

Mr. JOHNSTON. Madam President, the shift in power which this would
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bring out would be absolutely mind-boggling to me. You know, the whole fight would be, “Can you get in the President's budget or not?” It would make total supplicants of all Members of Congress. You might like that if you like executive. I think this President is going to be reelected. I like him. I must say I do not like him enough to turn over to him, and to all of his successors, the power of the purse when it is vested by the Constitution in this Congress.

Many of my colleagues, Senator BYRD, and others, have made powerful statements about the unconstitutionality of this provision earlier today. They surely are right. If we do not stand up for the rights of the Congress under the Constitution, I hope the courts will. I will support the Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator. I yield the remainder of my time to Senator SARBANES.

Mr. SARBANES. Ten minutes? Mr. BYRD. Ten minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 10 minutes.

Mr. BUMPERS. Would the Senator from West Virginia give me 1 minute prior to the Senator from Maryland speaking and it not come off the Senator's time?

Mr. BYRD. I yield 10 minutes to Senator SARBANES, but first 1 minute to Senator BUMPERS.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Senator from Louisiana for a very powerful, cogent statement. No. 2. I want to say to my colleagues that, if by some chance the Supreme Court does not rule this unconstitutional, you will never be able to take this power back. Thirty-four Senators can keep you from ever taking this power back. It will be gone forever.

When the Framers assembled in Pennsylvania, in Philadelphia, in 1787, the one thing they knew above everything else was they had all the kings they wanted. They wanted no more kings. And they succeeded admirably. We have had 43 Presidents and no kings—until now. We are doing our very best to transfer kingly powers to the President of the United States. I thank the Senator for yielding.

Mr. SARBANES addressed the Chair. The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I express my very deep appreciation to the distinguished Senator from West Virginia, Senator BYRD, for the extraordinary statement which he made earlier today on this issue. It is my prediction that, if this measure passes and is implemented, history will look back on this moment and say that it was a critical turning point in our constitutional system and that it was the Senator from West Virginia, above all others, who stood on the floor and warned of what this would bring about; that it was the Senator from West Virginia who understood our existing constitutional system the best and saw the dangers inherent in this proposal.

Part of what is happening here is that I think this measure will bring about the reality of addressing important national problems. There is a skilled craftmanship in addressing problems of public policy which members of a legislative body are supposed to bring to the table, and that can result in holding—hold—well, I don’t know about holding the President on—holding the President on—holding the President on. The question is, can you formulate an appropriate response?

As the distinguished Senator from Louisiana said, this proposal is not really about balancing the budget. You balance the budget by tough-minded decisions on the budget, which the President and the Congress have been making in recent years.

What is happening here is an enormous transfer of authority from the legislative branch to the executive branch that completely contravenes and contradicts the Constitution, so much so that I believe when tested in the courts, this measure will be found wanting, which will I trust prove to be the case. This proposal gives the President the power, or purports to give the President the power, once he signs a piece of legislation into law, to then take out of that law various items—actually, as many as he wants, even if recognized appropriation items—that unmaking of existing law. The Congress then, in order to override that rescission, would have to pass a disapproval bill which the President can veto. Once he vetoes the disapproval bill it takes a two-thirds majority in both Houses to override the President's rescission.

Thus, under the proposal before us, the President, as long as he can hold on to the third plus one of either the Senate or the House—not both bodies; either the Senate or the House—can determine every spending priority of this country. Think of that. The President and 34 Senators, or the President and 166 Members of the House—not “and”, but “or”—can determine every spending priority of this Nation. Obviously this represents a fundamental reordering of the separation of powers and the check and balance arrangements between the legislative and executive branch in our Nation's Constitution.

Unfortunately, there is a tendency to dismiss such broad-reaching constitutional questions. They were, however, very much at the forefront of the thinking of the Founding Fathers when they devised the Constitution in Philadelphia in the summer of 1787; a Constitution that I might observe has served the Republic well for more than 2 centuries. As the able Senator from West Virginia has observed a very deeply, this provision was put into place and it has served this Nation well. Obviously, when we consider changing our Nation's basic charter we need to be very careful and very prudent.

Now, I submit it does not take great skill or vision to have a strong executive. Lots of nations have strong executives. In fact, if a country's executive is strong enough, we call it a dictatorship. If we review history, even look around the world now, we can see clear examples of this. It is one of the hallmarks of a free society to have a legislative branch with decisionmaking authority, not only does it open up the check and balance between the two branches, but also it visibly demonstrates the vital importance of protecting the judicial branch against interference from any President.

The Senator from West Virginia, to his enormous credit, is a great institutionalist. He believes in the institutions of our Nation and is concerned with maintaining their strength and vitality and resists the political fad of the moment. Our Nation is a balanced Government with independent branches, not only an executive with power and authority, but a legislative branch with power and authority, and a judiciary that is independent. This measure significantly erodes the arrangements which has served the Republic well for over 200 years.

I invite all of my colleagues to stop and think for a moment about how this proposal opens up the check and balance relationships between the legislative and executive branch, for the President, to bring enormous pressure to bear upon the Members of the Congress and therefore markedly affect the dynamics between the two branches.

The President could link—easily link, obviously, will link, in my judgment—unrelated matters to a specific item in the appropriations bill. Suppose a Member is opposing the President's policy—perhaps somewhere where the world is currently in a domestic policy; perhaps a nomination which the President had made—and the President receives a bill which contains in it an item of extreme importance to the Member's district or State, justified to the President—perhaps for the Nation's economic interest; for example, the dredging of a harbor, or the building of a road. The President calls the number and says he noticed this item, he certainly hopes he does not have to reject it. He does want to do so. He knows it is meritorious. But at the same time, he has this other issue that he is very concerned about in which the Member is opposing him.
My friend from Louisiana spoke of how the line-item veto power would be used to directly neutralize congressional policy on a particular issue. A majority is in favor of a certain policy, the President pulls it out and negates it, he does not defeat it but neutralizes it, and that is the end of it—even though a clear majority in both Houses of the Congress wanted the policy.

The next step beyond rendering the congressional opinion null and void on a specific issue itself, is to link that issue to some other unrelated issue on which the President is seeking to obtain leverage over the Member of Congress. In fact, in the hands of a vindictive President, the line-item veto could be absolutely brutal. I want to lay that on the record today. In the hands of a vindictive President the line-item veto could be absolutely brutal. But you would not need a vindictive President for abuses. Presidents anxious to gain their goals, as all Presidents are, will use this weapon to pressure legislators.

Mr. JOHNSTON. Will the Senator yield?

Mr. SARBANES. I am happy to yield to the Senator.

Mr. BYRD. Mr. President, how much time do I have?

Mr. SARBANES. I yield to the Senator from Louisiana.

Mr. BYRD. I yield 2 additional minutes to Senator SARBANES.

Mr. SARBANES. I yield to the Senator from West Virginia.

Mr. SARBANES. I yield to the Senator from West Virginia for so clearly and eloquently setting forth the severe problems connected with this proposal.

Exhibit 1

From the Legal Times, Mar. 25, 1996

Loosening the Glue of Democracy

The line-item veto would discourage congressional compromise

By Abner J. Mikva

There is a way that could lead to the idea of a line-item veto that causes it to keep coming back: Presidents, of course, have always wanted it because the line-item veto represents a substantial transfer of power from the legislative branch to the executive branch. Government purists favor the idea because the current appropriations process—whereby all kinds of disparate expenditures are wrapped or "bundled" into one bill so that the president must either swallow the whole thing or veto the whole thing—is very messy and wasteful. Reformers generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has changed over the years. When I first saw the appropriations process, back in the Illinois legislature, I thought it was a "technicality" to bundle dozens of purposes into a single bill. It also seemed unconstitutional since the Illinois Constitution had a "single subject" clause, and the single subject clause was considered by the legislature to be the "appropriate subject." But the "single purpose" clause had been observed in the breach for many years by the Illinois courts in 1956. When I first saw the bundling process work when a single bill, presented for final passage, appropriated money for both the Fair Employment Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) and one to house the inhabitants of the Downstate portions of Illinois. If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I thought were bad, and vote against the constitutional clause. To my dismay, the legislature favored all the other commissions on separate votes, but the FEPC went down to defeat.

This is the sort of thing that happens in small states where the legislature is strong enough, and that an impecunious presidency is more of a threat than an overgoverning Congress. The current balance of power is just right.

That has been the gist of Sen. Robert Byrd's opposition to the line-item veto. The West Virginia Democrat has argued that the appropriations power, the power of the purse, is the only real power that Congress has and that the line-item veto would diminish that power substantially. So far, he has prevailed—although last year, the reason he prevailed had more to do with the Republican unwillingness to give such a powerful tool to President Clinton.

But now the political dynamics have changed. The Republicans in Congress can use the line-item veto to fashion a line-item veto with the incumbent president—unless he gets re-elected—and their probable presidential candidate, Senate Majority Leader Robert Dole, has recently made clear that he wants this passed. Chances for the line-item veto are vastly greater.

There are some constitutional problems in creating such a procedure. The wording of the Constitution suggests pretty strongly that a bill is presented to the President for his signature or veto in its entirety. It will take some creative legal brains to write such a "technicality." I reluctantly advised the president last year that it was possible to draft a line-item veto law that would pass constitutional muster. That proposal involved a Ruben Goldberg plan that "pre-tended" that the omnibus appropriations...
Madam President, again I am proud that today the Senate is passing the conference report on the Line-Item Veto Act of 1996. Giving line-item veto authority to the President is a promise we made to the American people in the Contract With America, and it is a promise we are following through on today.

Line-item veto seems to be the one thing that all modern Presidents agree on. All of our recent Presidents have called for the line-item veto—both Republican Presidents and Democratic Presidents are alike. And for good reason. The President, regardless of party, should be able to eliminate unnecessary pork-barrel projects from large appropriations bills.

Most of our Nation's Governors have the line-item veto. Some States have had line-item veto since the Civil War. There's a lot of experience out there in the States that shows us this is a good idea; 43 Governors have the line-item veto, and now—finally—the President will, too.

President Clinton and I have talked about the Line-Item Veto Act. He wants the line-item veto and we both think it is a good idea.

Certainly, the line-item veto is not a cure-all for budget deficits. No one is pretending it is the one big answer to all of our budget problems.

But it is one additional tool a President can use to help keep unnecessary spending down and help us fulfill our pledge to American taxpayers for less Washington spending. Line-item veto has a lot of support in the Senate. We passed our version of the bill in the Senate just about a year ago on March 17, 1995 with the support of 69 Senators.

But I know some are worried that it shifts the balance of power away from Congress and to the President. Well, appropriations bills that go on for hundreds of pages have already altered the dynamic between the President and Congress from what it was 200 years ago.

Even so, for those who aren't so sure line-item veto is the right approach, this bill has a sunset in it. We will try this experiment for a few years and see if it works. I am confident it will. It is an idea whose time has come.

Mr. President, I want to thank Senators STEVENS, DOMENICI, MCCAIN, and McCAIN for their leadership. The line-item veto is an affront to middle-income Americans who have been stretched to the breaking point and are watching the Congress barrel projects from large appropriations bills.

Senate today is a half-measure. It only addresses one side of wasteful Government spending. Madam President, there are different types of pork around here, what I call classic pork, but it does not belong in a museum. It is the sweet-heart awards, the bogus studies, the phony commissions, the make-work projects that look good to the constituents back home.

Frittering away the taxpayers' dollars is an affront to middle-income Americans who have been stretched and squeezed enough. This is where the line-item veto can be a fierce instrument against wasteful pork. We can slice out the pork with a slash of his pen. In this regard, the measure before the Senate today is a half-measure. It only addresses one side of wasteful Government spending.

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expenditures. That is right, Mr. President. It is still pork, but it will be riveted onto a revenue bill or a budget reconciliation bill—like the one the Republican majority passed last fall. Call it a tax loophole or whatever you want. It is still just as wasteful, and it is still just as shameful as appropriated pork spending.

This problem of tax expenditures is not new. We have visited it many times, but with little resolution. The Budget Committee held hearings going back to 1993 on the budgetary effects of tax expenditures. OMB Director Dr. Alice Rivlin testified, and I quote, “Tax expenditures add to the Federal deficit in the same way that direct spending programs do.”

I believe, and many of my colleagues on both sides agree, that if we are serious about cutting wasteful spending, if we are serious about reducing the deficit, if we are serious about a credible line-item veto, we should include special interest tax loopholes in the list of what the President can line out.

What should shine forth from this conference report is an attack on both waste and federal revenue. Federal tax loopholes, called limited tax benefits. The JCT statement is included, the President can rescind only, and I repeat, only those items identified in the legislation as limited tax benefits. The JCT declaration is more than a piece of paper. It is a declaration of immunity for what could very well be a limited tax benefit. It is an inoculation against a Presidential line-item veto. It is the magic bullet for tax lobbyists.

I do not believe that any of my colleagues fell of the turnip truck yesterday. We know how lobbyists work. I guarantee you that they will be swarming over JCT like the sand hill cranes returning to the Platte River in Nebraska. JCT will be thick as thieves returning to the floor today. It is a tarnished reputation.

The conference report language defines a tax benefit as a revenue-losing provision that does one or two things. It could provide a Federal tax deduction, credit, exclusion, or preference to an individual or entity, owning the same type of property, or issuing the same type of investment with a sweetheart tax deal.

Madam President, I am disappointed by the final product of the conference. We know how lobbyists work. I guaranteed you that they will be swamped over JCT like the sand hill cranes returning to the Platte River in Nebraska. JCT will be thick as thieves with tax lobbyists. And for good reason, the committee will have the sweeping power to grant unprecedented immunity to any Tom, Dick, or Harry with a sweetheart tax deal.

Madam President, I congratulate the conference for their work on this bill. This conference report provides the President with a very narrow authority to cancel specific appropriations, direct spending, or limited tax benefits. Under this provision, the Congress retains its legislative power of the purse in that the Congress may enact a bill declaring the President’s previous cancellation. This bill, of course, would be subject to a Presidential veto and subsequent congressional override.

If we are to have sustained economic growth, Government spending must be significantly reduced. A balanced budget amendment, which I am hopeful will still be passed this Congress, and line-item veto authority would do much to bring about fiscal reform and national savings. Annual budget deficits have reached $200 billion, with the national debt growing to more than $5 trillion.

Madam President, it is clear that neither the President nor the Congress are effectively dealing with the budget crisis. The President continues to submit budgets which contain little spending reform and continue to project annual deficits. If we are to have sustained economic growth, Government spending must be significantly reduced. A balanced budget amendment, which I am hopeful will still be passed this Congress, and line-item veto authority would do much to bring about fiscal reform and national savings.

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Amendment and repeal of statutes no less than enactment must conform with article I.

This conference report comes up with a new procedure which does not conform with article I and says that the President may cancel—that means repeal—the law of the land of the United States of America. He can with his pen on day 1 create a law by signing our bill, and on day 2, 3, 4, 5, or 6 cancel what is then already the law of the land.

Madam President, the Constitution will not tolerate that. We should not even attempt to do such a thing. There have been many reasons given for why the line-item veto in one version or another would be useful in terms of deficit reduction. There are ways constitutionally of doing it. The Senator from West Virginia made that effort earlier this afternoon. The current conference report before us simply cannot stand muster.

I thank you, Mr. McCaIN. Madam President, how much time remains?

The PRESIDING OFFICER. There are 22 minutes remaining.

Mr. McCaIN. I yield 11 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. Whoyield?

Mr. LEVIN. Madam President, thank you, and I yield to the Senator from West Virginia.

Mr. MCCAiN. Madam President, I am happy to yield.

Mr. SARBANES. I am happy to yield.

Mr. SARBANES. In fact, the Constitution says: Every Bill which shall have passed the House of Representatives and the Senate shall, before it becomes a Law, be presented to the President of the United States; if he approve it, he shall sign it, but if he shall not approve it, he shall return it, with his Objections. I do not see how constitutionally a President can sign a bill, make it the law, and then undo the law through a procedure that would not have been permitted by the Constitution.

Mr. LEVIN. Madam President, the Supreme Court has said it precisely in the Chadha case. I am going to read these words again. I read them earlier this afternoon.

I want to thank the Senator from Maryland just read:

Amendment and repeal of statutes no less than enactment must conform with article I. This conference report comes up with a new procedure which does not conform with article I and says that the President may cancel—that means repeal—the law of the land of the United States of America. He can with his pen on day 1 create a law by signing our bill, and on day 2, 3, 4, 5, or 6 cancel what is then already the law of the land.

Madam President, the Constitution will not tolerate that. We should not even attempt to do such a thing. There have been many reasons given for why the line-item veto in one version or another would be useful in terms of deficit reduction. There are ways constitutionally of doing it. The Senator from West Virginia made that effort earlier this afternoon. The current conference report before us simply cannot stand muster.

Second, it is used as a means of obscuring spending in the shuffle of uncounted billions of dollars of appropriations bills. This has tended, first, to tie the President’s hands, leaving him with a take-it-or-leave-it decision on the entire bill.

When we send spending to the President that cannot be justified on its merits, it is attached more often than not to important appropriations bills. This has tended, first, to tie the President’s hands, leaving him with a take-it-or-leave-it decision on the entire bill.

Second, it is used as a means of obscuring spending in the shuffle of uncounted billions of dollars of appropriations bills.
the savings canceled by the President go forward toward deficit reduction.

The line-item veto is not a budgetary trick. Unlike the appropriations process that currently exists and has existed from the beginning of this legislation, the line-item veto is not subject to pay dates. It is a substantive change aimed at discouraging budget waste by encouraging the kind of openness and conflict that enforces restraint.

Today is not to hand the Executive dominance in the budget process. The goal is the necessary nudge toward an equilibrium of budget influence strengthening vital checks on excess. But I think it does something more. I think the real benefit of the line-item veto is that it exposes a process that thrives on public deception. It is a lasting, meaningful reform—changing the very ground rules of the way this legislature has operated.

We have reached a historic decision, a historic vote. The first line-item veto, as I said, was introduced 120 years ago, interestingly enough, by a Congressman from West Virginia, Charles Faulkner. It died then in committee, and since then nearly 200 line-item veto amendments have been introduced, each one buried in committee, blocked by procedures or killed by filibusters.

Today we have not been blocked. Today we have not been killed. And this issue will no longer be ignored or no longer delayed. The House and the Senate are in agreement. The President is in agreement. The public is in agreement. And now just one final vote remains.

This measure is a milestone of reform. It is the first time that the Congress will voluntarily part with a form of power it has abused. That is the result of a public that no longer accepts our excesses and excuses. But it is also evidence of a new era in Congress, a period in which we, as a body, have risen to the occasion.

This vote will prove that Congress can overcome its own narrow institutional interests to serve the interests of the Nation. That will be something remarkable, something of which every Member who supports this legislation can rightfully be proud.

With this vote, let us show the American people the seriousness about changing the way this Congress works. Let us show them a legislative process conducted without deception and without the embarrassment we always feel when it is exposed. Let us show them that their tax money will no longer be wasted on favors for the few at the expense of the many. Let us show them that business as usual in Congress is finally and decisively over.

Madam President, I yield the floor. I yield back any additional time that was yielded to me.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I yield myself the remaining time.

Madam President, a number of comments and statements have been made about this legislation, and due to a shortage of time I would not be able to respond to them. With the help of my friend and colleague from New Mexico, we will submit a long statement for the Record tomorrow in response to some of the comments and statements that were made about the impact of the line-item veto. I think it is important that the record be clear in response to some of those statements as I think in future years historians may be looking at the debate that took place in the Chamber today.

Madam President, we have nearly arrived at a moment I have sought for 10 years. In my life, I have had to cause to develop a very keen appreciation for the value of time, and that appreciation has made it unlikely that I will soon enjoy a reputation for abiding patience. I confess my great eagerness for this day's arrival. The line-item veto's elusiveness has encouraged in me if not patience, then certainly respect for those who possess it in greater quantity than I.

Ten years may be but a moment in the life of this venerable institution, but it is a long time to me. In a few minutes, the issue will be decided. I am certain that the Senate, the President, the Senate is now apparently prepared to adopt S. 4, the line-item veto conference report, that its adoption by the other body is assured, and that the President of the United States will soon sign this bill into law.

I am deeply grateful to my colleagues who have worked so hard to give the President this authority. I wish to first thank my partner in this long, difficult fight, my dear friend, the Senator from Indiana, Mr. COATS. His dedication to this legislation has been extraordinary and its success would not have been possible without the great care and patience he has exercised on its behalf.

I would also like to thank Mark Buse on my staff and Sharon Soderstrom and Megan Gilly on Senator COATS's staff.

Madam President, I am grateful to the chairman of the Budget Committee, Senator DOMENICI, and the chairman of the Governmental Affairs Committee, Senator STEVENS. There have been moments in our conference when my gratitude may not have been evident, but I would not want this debate to conclude without assure there both Senators of my respect for them and my appreciation for their sincere efforts to improve this legislation. We may have had a few differences on some questions pertaining to the line-item veto, but I know we are united in our commitment to the success of S. 4.

I also wish to thank the assistant majority leader, Senator LOTT. As he often does, amidst the confusion and controversies that often define conferences, he managed to identify the common ground and bring all parties to fair compromises and broad agreement.

Finally, let me say to the majority leader, Senator DOLE, all the proponents of the line-item veto know that without his skillful leadership, without his admonition to put differences over details aside for the sake of the principle of the line-item veto, we would not now stand at the threshold of achieving something of real value to this Nation. I wish, as former baseball great Reggie Jackson once described himself, "the straw that stirs the drink" around this place.

The rules and customs of the Senate are revered as a symbol of action but, rather, for their restraining effect on ill-considered actions. Few things of real importance would ever occur here without Senator DOLE's leadership. The advocates of this legislation have cause to celebrate his leadership today, but I think even the opponents of this particular measure could refer to the many occasions when all Senators have had cause to celebrate Senator DOLE's leadership of the Senate.

Madam President, the support of my colleagues for the line-item veto have made this long, difficult contest worthwhile and an honor to have been involved in, but even greater honor is derived from the quality of the opposition to this legislation. And every Senator is aware that the quality of that opposition is directly proportional to the quality of one Senator in particular, the estimable Senator from West Virginia, Senator BYRD.

Madam President, I would like to indulge a moment of common weakness of politicians. I wish to quote myself. I wish to quote from remarks I made 1 year ago when we first passed the line-item veto. I said at that time that "Senator BYRD distinguished our debate, as he has distinguished so many of our previous debates," as he has distinguished today's debate, "with his passion and his eloquence, his wisdom and his deep abiding patriotism. Although many colleagues may have eagerly sought opportunities to contend with Senator BYRD, that was, to use a sports colloquialism, only my game face. I assure you I have approached each encounter with trepidation. Senator BYRD is a very formidable man."

Madam President, I stand by that tribute today. If there is a Member of this body who loves his country more, who reveres the Constitution more, or her acquaintance. Should we propose to the Constitution of the United States will soon sign this bill into law.

The rules and customs of the Senate to refrain from unwittingly destroying this legislation. And every Senator is aware that the quality of that opposition is directly proportional to the quality of one Senator in particular, the estimable Senator from West Virginia, Senator BYRD.

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The rules and customs of the Senate to refrain from unwittingly destroying this legislation. And every Senator is aware that the quality of that opposition is directly proportional to the quality of one Senator in particular, the estimable Senator from West Virginia, Senator BYRD.
Like Senator Byrd, my regard for the Constitution encompasses more than my appreciation for its genius and for the wisdom of its authors. It is for the ideas it protects, for the Nation born of those ideas that I would ransom my life to defend the Constitution of the United States.

It is to help preserve the notion that Government derived from the consent of the governed is as sound as it is just that I have advocated this small shift in authority from one branch of our Government to another. I do not think the change to be as precipitous as its opponents fear. Even with the line-item veto authority, the President could ill-afford to disregard the will of Congress. Should he abuse his authority, Congress could and would compel the redress of that abuse.

I contend that granting the President this authority is necessary given the gravity of our fiscal problems and the inadequacy of Congress' past efforts to remedy those problems. I do not believe that the line-item veto will empower the President to cure Government’s insolvency on its own. Indeed, that burden is and it will always remain Congress’ responsibility. The amounts of money that may be spared through the application of the line-item veto are significant but certainly not significant enough to remedy the Federal budget deficit.

But granting the President this authority is, I believe, a necessary first step toward improving certain of our own practices, improvements that must be made for serious redress of our fiscal problems. The Senator from West Virginia reveres, as do I, the custom of the Senate, but I am sure he would agree that all human institutions, just as all human beings, must fall short of perfection.

For some years now, the Congress has failed to exercise its power of the purse as carefully as we would have. Blame should not be unfairly apportioned to one side of the aisle or the other. All have shared in our failures. Nor has Congress’ imperfections proved us to be inferior to other branches of Government. This is not what the proponents contend.

What we contend is that the President is less encumbered by the political pressures affecting the spending decisions of Members of Congress whose constituencies are more narrowly defined than his. Thus, the President could take a sterner view of public expenditures which serve the interests of only a few which cannot be reasonably argued as worth the expense given our current financial difficulties. In anticipation of a veto and the attendant public attention to the vetoed line-item appropriation, Members should prove more able to resist the attractions of unnecessary spending and thus begin the overdue reform of our current practices. It is not an indictment of Congress nor any of its Members to note that this very human institution can stand a little reform now and then.

Madam President, I urge my colleagues to support the line-item veto conference report and show the American people that, for their sake, we are prepared to relinquish a little of our own power.

I am very pleased to be here on this incredibly historic occasion. I yield the remainder of my time.

Mr. BYRD. Will the Senator yield?

Mr. MCCAIN. I am happy to yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I think of an old fable about two frogs. They both fell into a churn that was half filled with milk. One of the frogs immediately turned over, gave up the fight, and perished. The other frog kept kicking until he churned a big pat of butter. He mounted the butter, jumped out of the churn, and saved his life.

The moral of the story is: Keep on kicking and you will churn the butter.

Madam President, I say this in order to congratulate Senator McCain and Senator Coats especially, for their long fight and for their success in having gained the prize after striving for these many, many years. They never gave up. They never gave up hope. They always said, “Well, we will be back next year.”

So I salute them in their victory and, as for myself, I simply say, as the Apostle Paul, “I have fought a good fight, I have finished my course, I have kept the faith.”

I thank all Senators.

Mr. COATS. Will the Senator yield, if I could just respond to that?

First of all, that is a high compliment and I am sure I speak for both Senator McCain and myself in thanking you for that.

But, second, I leave here, after this vote, with the vivid picture in my mind that the Senator from West Virginia is still kicking the churn on this issue, and that the final chapter probably is not written yet.

I admire his tenacity also, and I think he has gained the respect of Senator McCain and I and everyone else for his diligence in presenting his case.

Mr. BYRD. I thank the Senator.

Mr. MCCAIN. I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report on the line-item veto.

Mr. COATS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report on the line-item veto.

Mr. COATS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report, the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 69, nays 31, as follows:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
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<tbody>
<tr>
<td>69</td>
<td>31</td>
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So, the conference report was agreed to.

Mr. DOLE. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

CORRECTING THE ENROLLMENT OF H.R. 2854

Mr. DOLE. Pursuant to a previous unanimous consent agreement, I now call up Senate Concurrent Resolution 49, correcting the enrollment of the farm conference report.

The PRESIDING OFFICER. Under the previous order, Resolution 49, a concurrent resolution to correct the enrollment of H.R. 2854 previously submitted by the Senator from Indiana is agreed to.

The concurrent resolution (Senate Concurrent Resolution 49) was agreed to as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) strike paragraph (3).

(2) in paragraph (2), strike “; and” at the end.

(3) in paragraph (2), strike “; and” at the end and insert a period; and

(4) strike paragraph (3).

The PRESIDING OFFICER. Under the previous order, the motion to reconsider the vote laid on the table was agreed to.
The PRESIDING OFFICER. The clerk will report the conference report to accompany H.R. 2854.

The assistant legislative clerk read as follows:

The committee on conference on the disagreed two articles of amendment of the Senate to the bill (H.R. 2854) to modify the operation of certain agricultural programs, having met, after full and free contest and having agreed to recommend and do recommend to the respective Houses this report, signed by a majority of the conference.

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 March 25, 1996.)

The PRESIDING OFFICER. Debate on the conference report is limited to 6 hours; 2 hours under the control of the Senator from Indiana, Senator LUGAR; 1 hour under the control of the Senator from Vermont, Senator LEAHY; and 3 hours under the control of the Democratic leader or his designee.

Mr. DOLE, Madam President, I hope most, if not all, of the debate will be used this evening. I know the Senator from Indiana, the chairman of the committee, is here and prepared to debate. I know there are some others who may want to be heard tomorrow. But hopefully we can conclude action on this tomorrow morning and get it over to the House so they can conclude it before they take up health care; otherwise, we are going to have a problem getting it passed before the Easter recess.

So there will be no further votes tonight. That has already been announced. I thank the chairman of the committee. I think Senator LEAHY is also going to be here for some debate. I know the distinguished Democratic leader has time reserved too.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

THE DEATH OF EDMUND S. MUSKIE

Mr. DASCHLE. On behalf of myself, Senator DOLE, Senator COHEN, and Senator SNOWE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 234) relative to the death of Edmund S. Muskie.

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie.

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader.

Whereas, in 1984, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years.

Whereas, after a second two-year term, he went on in 1998 to become the first popularly elected Democratic Senator in Maine's history.

Whereas, Edmund S. Muskie in 1968 was chosen as Democratic Vice-Presidential nominee.

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State.

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities. Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today it does so in further mark of respect to the memory of the deceased Senator.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. DASCHLE. Mr. President, in the earliest days of our Nation, George Washington said it was the duty of public servants to raise a standard to which the wise and the honest can repair."" In his more than five decades as a public servant, Senator Edmund Muskie not only raised the standard of wisdom and honesty in public office. On many, many occasions and in many ways, he set the standard.

Today I join my colleagues and, indeed, all of America, in saying goodbye to this extraordinary American. Senator Muskie served two terms as Governor of Maine—something of a minor political miracle in such a rock-ribbed Republican State. He also served with great dignity and distinction as our Nation's Secretary of State under President Carter.

But it was his service in this Chamber, and as his party's candidate for Vice President, for which Senator Muskie will be best remembered—and rightly so.

In 1974, I came to Washington as a Senate staffer. Senator Muskie had already served 15 years. What first impressed me about him was his compassion, and his unshakable belief in the infinite possibilities of America. It was a belief he learned firsthand from his immigrant father, a belief that animated his entire life.

Ed Muskie knew that government has a responsibility to help people seize possibilities to make a good life for themselves, their families and their communities.

He held other beliefs deeply as well. Ed Muskie believed that we have an obligation to be good stewards of this planet. He was an expert on air and water pollution, and he served as floor manager for two of the most important environmental laws ever—the Clean Air Act of 1963 and the Water Quality Act of 1965.

Ed Muskie believed that more was needed to solve the problem of poverty than money from Washington. Thirty years ago, he called for a new creative federalism.

"No matter how much the Federal partner provides," he said, "no Federal legislation, no executive order, no administrative establishment can get to the heart of most of the basic problems confronting the state governments today.

Ed Muskie believed that politics ought to be a contest of ideas, not an endless series of personal attacks.

Rather than counter-attack, Senator Muskie appealed for reason and decency and truth. I want to quote from a televised speech he made back then, because I think it bears repeating today. "In these elections *** something has gone wrong," he said.

There has been name calling and deception of an unprecedented volume. Honorable men have been slandered. Faithful servants of the country have had their motives questioned and their patriotism doubted. . . . The danger from this assault is not that a few more Democrats might be defeated—the country can survive that. The true danger is that the American people will have been deprived of that public debate, that opportunity for fair judgment, which is the heartbeat of the democratic process. And that is something the country cannot afford.

Senator Muskie went on to say: "There are only two kinds of politics. They are not radical or reactionary, or conservative and liberal, or even Democratic or Republicans. They are only the politics of fear, and the politics of trust."

"Senator Muskie believed in the politics of trust. And he believed in honest negotiation. Testifying before the Senate a few years ago, Senator Muskie said, "There's always a way to talk." There is always a way to talk."

In his later years, Senator Muskie helped found an organization called the Center for National Priorities to find new ways to talk in a reasoned manner about the big problems facing our nation.

Today, we mourn Ed Muskie's death. But let us also celebrate his extraordinary life. And let us re-dedicate ourselves to the beliefs that shaped that life.

The belief that America is and must remain a land of possibilities—for all of us.

The belief that we must protect our environment. The belief that it takes more than money alone to solve our problems. It takes hard work and personal responsibility, and people working together.

Let us re-dedicate ourselves to Senator Muskie's belief the politics can and should be a contest of ideas, and
that we have a responsibility to talk straight to the American people.

And let us remember that we have a responsibility to talk straight to each other. There are many great and urgent issues facing this chamber. There are the children, and to his many friends the world over.

The PRESIDING OFFICER. If there is no objection, the resolution is agreed to.

The resolution (S. Res. 234) was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. I yield the floor.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Indiana.

Mr. LUGAR. Mr. President, it is a privilege to bring before the Senate H.R. 2854, the Federal Agricultural Improvement and Reform Act. The farm bill that we are to pass after this debate will make the most sweeping changes in agricultural policy since the days of the New Deal. These changes begin a new era in which markets rather than Government will dominate farm decisions.

H.R. 2854 offers farmers more freedom to plant crops without Government constraint than they have had in decades. This legislation turns farm programs from an uncontrollable entitlement to a system of fixed and declining income-support payments. From now on, the Federal Government will stop trying to control how much food, feed, and fiber our Nation produces. Instead, we will trust the market for the first time in a long while to direct those signals.

Farmers during this time will not be left unprotected in a sometimes unforgiving world marketplace. H.R. 2854 provides new protection against export embargoes, ensuring that the United States will be a reliable supplier of agricultural products. The bill also strengthens our successful export credit programs, placing new emphasis on high-value-added markets that now constitute more than half of our overseas sales.

Back at home in this country, where resource conservation is increasingly important not only to producers but to all citizens, this bill offers new incentives to share the cost of measures that enhance water quality and control pollution. The Conservation Reserve Program will be renewed through the year 2002, extending the many environmental benefits of that historic program.

This legislation will require more responsibility of taxpayer money. For example, the Farm Services Agency has been compelled by law to make new loans to borrowers who are already delinquent. This bill will end that practice and other abuses of our lending programs.

H.R. 2854 authorizes food stamps and other important nutrition programs. It consolidates and streamlines rural development programs. It repeals dozens of outdated or unfunded Federal programs and requirements.

The President's spokesmen have stated that the President will sign this legislation with reluctance. I am not at all reluctant in my support. This is the best farm legislation I have seen in my congressional career.

Let me mention profitability. According to the Food and Agricultural Policy Research Institute, under FAIR, crop and livestock gross farm income will expand by 13 percent; net farm income will expand by 27 percent over the next 10 years. This occurs while Government payments to farmers decline by 21 percent during that period of time.

Let me mention the factor of opportunity. Farmers will be able to adjust planting decisions to take advantage of market opportunities as they occur. Current programs force farmers to follow old planting patterns and U.S. Department of Agriculture regulations rather than profit opportunities.

Let me mention profitability. According to the Food and Agricultural Policy Research Institute, under FAIR, the act that we are discussing tonight, gross farm income will expand by 2 percent; net farm income will expand by 27 percent over the next 10 years. This occurs while Government payments to farmers decline by 21 percent during that period of time.

Growth: Farmers will be able to adjust plantings and take advantage of growth in the high-value processed product market. The current programs often force farmers to limit plantings and plan for stagnant low-value bulk markets in order to qualify for the payments under the current programs.

The legislation that we are talking about today is a revolution of consequence, perhaps the greatest in 60 years. I say that, Mr. President, because we are now in a situation in which the market-distorting target price system is replaced by one of certainty to farmers—also to taxpayers, also to budget writers.

Let me explain for just a moment, Mr. President, how this works. In the
past, we estimated in the last farm bill—a 5-year farm bill, as opposed to the 7-year bill in front of us today—that the cost of this in terms of the outlays for the program crops of corn, wheat, cotton, and rice, would be $41 billion, with the additional $4 billion for the commodity programs, or a total of $45 billion a year, for those crop deficiency payments. But, in fact, Mr. President, it turned out that the bill cost $57 billion—$16 billion more. Taxpayers have asked Members of the House and Senate, “How could you have missed the mark and estimated $45 billion, and it turned out to be $57 billion?”

Well, Mr. President, the weather intervened, and various other legislative emergencies intervened. All sorts of things intervened. They always do in agriculture, given world conditions. Mr. President, we went out confidently from the last farm bill discussion in 1990 with a $41 billion item in mind, and it turned out to be $57 billion.

In this particular case, Mr. President, not only the dollars that are going to be spent for these programs at the beginning, and they decline each year for 7 years. They are known to Congressmen and the press, and they are known to farmers at the time that they buy the seeds to plant, and farmers sign the contracts and know exactly what the payments are going to be for 7 years if he or she continues to farm, makes agricultural use of that land, complies with conservation requirements, and does not plant anything else. There are the only stipulations. That is a large difference, as I mentioned before. Having signed up, that is the last visit the farmer may need to pay to the CFSA office, or any other USDA office. That is a big change in the life of agricultural America.

Let me simply point out that the Government will no longer tell farmers which crops to plant. I have mentioned that before, but let me highlight that again. Since the time that my father, Marvin Lugar, who was farming in Marion County, IN, in the 1930’s, was forced to destroy a portion of his corn crop and a good part of the hogs that he had on the farm, under what were supply and control dictates of the New Deal—and I will just explain that again, Mr. President. The thought then was that if you left farmers to their own devices, they would always produce too much, too many crops for the market. They are too much of everything and that, in essence, supply would be overwhelming and the price would go down and farmers would fail. Therefore, the philosophy of the 1930’s was that you have to control these farmers, you have to dictate what they can do and how much of it is permissible.

That has been our policy for the last 60 years. I must say, Mr. President, there is still, as farmers approach this bill, a great amount of anxiety. If you have been in that straitjacket for 60 years, even if you did not like it, and you rebelled against the Federal Government and you gave speeches about how Washington ought to stop meddling in farming and you stood up at the county Farm Bureau and said, “I want to get rid of the Federal Government altogether,” still, when the moment of truth often came, people said, “Well, if you have to, just do what you have to do. And will, in fact, people produce too much if there are no limitations?”

One of the great ironies, as we approached this farm bill and debated it throughout 1995, and now into 1996, was that in 1994, we had a great, enormous corn crop in the country—10 billion bushels. Arguably, that is the first or second largest crop in the history of the country. Immediately, agricultural economists—including those of the U.S. Department of Agriculture—said we have to control this situation or the price of corn will plummet given this overhang of supply. And so they did. As a corn farmer, I experienced this on my farm, the same one I inherited from my father, Marvin Lugar, whom I cited. In 1994, my father, who told me I could not plant 7.5 percent of my normal corn historical acreage, to literally lay it aside—nothing there—in order to qualify for the farm program. Farmers were told that all over the country, to qualify for the Government policy. We curtailed 7.5 percent of the acreage of corn that normally would have been planted.

Well, Mr. President, USDA was dead wrong. The year 1995 brought unparallelled demand in this country. People were feeding livestock around the world with our corn. It also brought demand for our soybeans and for our wheat and, in many months, for our cotton. The whole situation in China changed remarkably. We debate these issues as if the only thing that counts is our domestic economy. But we know, as a matter of fact, that the foreign policy implications for agriculture are profound, and the most profound one in 1995 was that we no longer exported. They sent strong signals that they would be importers. The markets they were servicing became importers from us.

So, as a result, Mr. President, as we have done this debate this evening, the price of corn is approaching historical all-time highs, largely because the carry-over from the 1995 crop, which was a short one, as it turned out, aided and abetted by a deliberate decision of the USDA to cut corn plantings, turned up short. The price of corn is approaching $4 a bushel.

In the past, we had big arguments on the floor, whether it be that the target price of $2.75 was too high—but that is not even in play, Mr. President. The price of corn right now is in the $3.80’s, $3.90’s. There are elevators all over this country—as a matter of fact, Mr. President, if you were a corn farmer, you could sell your entire crop that you do not plant; you can no longer bet that China will not buy something well above the target price; namely, the price that is used to establish the deficiency payment, the subsidy for corn. You could sell it all. You could even reach ahead another year and sell that crop, if you were confident of the number of bushels that you could produce. That is what market signals are all about.

Mr. President, I have no doubt that during the course of these discussions in the Senate will come on the floor, being unacquainted with agricultural economics, and not having any corn of their own in the situation, and will talk about the “destruction of the family farm,” and about a decline of income.

Mr. President, I hope that, as an antidote for those arguments, Senators will simply take a look at the price quoted in the newspaper tomorrow morning for cash corn and take a look at the futures markets on down this trail. They will notice a very substantial situation in our country for people who are farmers and who understand markets and who understand what we are talking about.

Mr. President, it seems to me that it is so important that we adopt this idea of looking toward markets. This hallmark of the bill must really be preserved. It is integral to the change that must occur if those of us who are farmers are to thrive in this coming economy.

Mr. President, I come before this body, as all Members know, as one who has 604 acres of land—about 250 acres, average, in corn; about 200 acres, average, in soybeans, each year. It is not a hobby farm. It is a productive farm, a profitable farm. It is a farm that has made a profit for many, many years. I come to this debate not as someone who is arguing on behalf of constituents entirely—although my constituents produce a lot of corn and beans in Indiana—but as somebody who has actually filled out the forms every year, who has had to comply with the rules of the game, who understands how farmers might be more profitable, who attends every meeting of the Indiana Farm Bureau annually and, in the counties, talks to farmers to understand precisely what is at hand.

And I say, Mr. President, after 20 years in this body in debating farm legislation, this is the first time that I can go home to Indiana and say the future of agriculture is bright. We have an opportunity in terms of our upside potential for something magnificent. We have a generation of farming for those to whom we pass it along. I think that is critically important.

Mr. President, while we have tried to deal with this basic issue of freedom to farm we have also in both the House and the Senate attempted to deal meticulously with issues that are of importance to farmers all over this country by county and by locale by locale. In the conference between the House and the Senate, staff identified close to 500 items in disagreement. In some cases the disagreement came because one House or the other did not even mention the item and, therefore, it was
new and we had to try to resolve it. But there was common interest. In the course of 2 days, Mr. President, because of the urgency of this legislation, Members resolved all of these issues.

This is why we were able to come tonight to the floor, if the hour is late and we will not complete our work until tomorrow. But I want to give hope to farmers that tomorrow will be the day in the Senate in which freedom to farm comes to pass because that will be a great day for agricultural America. And we will do that.

I appreciate this opportunity to lay before the Senate tonight the essence of this legislation.

I reserve the remainder of my time. Mr. DASCHLE addressed the Chair. The PRESIDING OFFICER (Mr. CRAIG). The distinguished Democratic leader.

Mr. DASCHLE. Mr. President, Senator LEAHY, the ranking member of the Senate Agriculture Committee, had to attend to a family emergency and is therefore not able to participate in the debate tonight. I know that I speak for the Senate, Mr. President, in wishing him well as he attends to his personal business, and we look forward to hearing from him on this bill tomorrow.

Mr. President, I want to take just a few moments tonight. Let me begin by making a couple of general points. First, let me commend the distinguished chairman of the Senate Agriculture Committee for his work on this effort. He and I may not agree on the final product. We certainly may not agree on the right to enact farm policy in this country. But I have no disagreement with him in the manner with which he has conducted his responsibilities as chairman. He is an extraordinary leader and a Senator who has earned profound respect on both sides of the aisle. And his skill and diligence in shepherding this bill to the floor again demonstrates why he is held in such high esteem.

I would like to draw attention tonight to the season this bill is being considered. I hope that regardless of the outcome we would all agree that we should never allow legislation this important to be considered so late in a Congress.

We are debating with the 1995 farm bill in March of 1996. It is almost April. There is no excuse for that.

I do not fault the distinguished chairman of the Committee. But I certainly fault the fact that in both houses of the Congress appeals to enact farm policy have been little priority given among our Republican colleagues to get this legislation to the floor in time to allow us to adequately consider all of these very controversial issues or in time to provide more certainty to farmers than they have been given.

There is no excuse for this delay. This legislation should have been passed—or at least considered—at a much earlier date.

I also take issue with the title “Freedom to Farm.” Farmers have had the freedom to farm—to do whatever they wish—for decades.

There is no requirement that farmers sign up for the farm bill. They are not compelled to live under the confines of whatever farm legislation we pass.

In every farm bill passed since legislation of this kind was enacted farmers have been given the right to farm. Regardless of what happens to this legislation, they will continue to have the freedom to farm.

Permanent law guaranteed the freedom to farm. If people did not want to be required to comply with the regulations and the legislation as it was enacted, they had the right not to do so. There was no requirement.

So now those who have opposed farm programs are saying to farmers, you do not have the right to advantage yourself under farm legislation at the end of 7 years because we are going to take away your options with regard to freedom to farm or anything else. We are going to phase out the partnership the government has had with agriculture.

I believe that is something that merits a great deal of debate. We ought to be discussing with a lot more care.

Regardless of whether or not this legislation passes—I assume it will—I have every expectation we will be back again next year dealing with this issue of the phaseout of farm programs.

I come to the floor tonight with the realization that there are some good things in the bill. I want to address those briefly. There are a number of things I find to be most difficult to accept, most problematic as I consider the advantages and disadvantages of this legislation.

Perhaps the most significant disadvantage I find in the legislation before us tonight is that it fails to provide the safety net we have always guaranteed farmers in those times when they found themselves in extraordinary circumstances, whether they be economic or natural.

Loan rates were capped. There is no opportunity for loan rates to go up. We all know what an important financial and economic tool the loan rate system has been in farm legislation for a long time. There is no opportunity now for loan rates to go up. They can go down. They will never go up.

The opportunity we provided farmers to store their own grain on their own farms—the freedom to store their own grain, if you will—is now denied farm programs. The farmer-owned reserve has been eliminated. Why that is the case I am not sure. Why we do not give farmers the freedom to farm when it comes to storing their own grain is something that I will leave to others to explain.

We have eliminated the Emergency Livestock Feed Program. South Dakota had 10 inches of snow this weekend. Everything was shut down, while livestock producers are calving all through my State. The Livestock Feed Program was eliminated. It is an important tool in times of disaster. This may not qualify. But there have been times just like this when it did, and farmers averted themselves of the Emergency Livestock Feed Program. But as a result of the passage of this legislation it is no more.

There is some flexibility but not for all. Vegetable producers are treated differently. Supposedly there is a signboard from the market—not the Govern- men. But I must say there is not a freedom to farm in all cases. Potato producers are not given the freedom to farm. Other producers that are still working under mandates that no longer exist have to work under in past years, and they are going to be confronted with constraints in the future. We do not have the freedom to farm in all cases for all commodities under this legislation. So let no one be misled in that regard.

The deficit increases the first 2 years under this legislation by $4 billion—$4 billion in increased costs to the Federal Treasury. In large measure the reason for that is very simple. We will be paying farmers regardless of price. We will see record prices for wheat, perhaps record prices for corn, and we may actually also see record payments from the Federal Government to the same producers.

The ultimate effect of that will be very simple—somebody is going to pay. The taxpayers could be billed more than $4 billion in the next 2 years alone as a result of that.

Research programs are shortened. As one who had the good fortune to chair the research subcommittee in past Congresses, I am very concerned about saying exactly what the wrong message on research—to say 2 years from now we will decide it is not enough. Research programs take longer than that. The clear blueprint we must lay out through research on what we intend to accomplish in agricultural production, especially, on the applied side of research, needs to be addressed. So to say that for some reason we will deal with that later, we will deal with that in a year or two, is just unacceptable.

Institution programs also are treated in the same manner. Food stamps, as everyone now knows, will only be reauthorized in 2 years in a 7-year bill. We are going to pay farmers for 7 years whether or not the price is warranted, but people on food stamps will only have the certainty of getting whatever assistance we can provide in this legislation for 24 months. After that, who knows. We did not say that about farm- ers, but we are going to say that about research. It is not exactly the wrong message on research—“to say 2 years from now we will decide it is not enough.” Research programs take longer than that. The clear blueprint we must lay out through research on what we intend to accomplish in agricultural production, especially, on the applied side of research, needs to be addressed. So to say that for some reason we will deal with that later, we will deal with that in a year or two, is just unacceptable.

Finally, Mr. President, of all the flaws, the one I have alluded to in a couple of my comments tonight, the fact that producers, regardless of price, regardless of need, regardless of production, will receive a payment is something that I think is just unconscionable from the market—not the Government. But the taxpayers will pay for the government even if we do not make the wrong decision. There is some flexibility but not for all. Vegetable producers are treated differently. Supposedly there is a signboard from the market—not the Government. But I must say there is not a freedom to farm in all cases. Potato producers are not given the freedom to farm. Other producers that are still working under mandates that no longer exist have to work under in past years, and they are going to be confronted with constraints in the future. We do not have the freedom to farm in all cases for all commodities under this legislation. So let no one be misled in that regard.

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Nobody ought to be misled about that. It is wrong. Call it what you will—a transition payment, a deficiency payment—it is a welfare payment. It is wrong. Farmers are not comfortable with that. I do not blame them for rolling the dice, taking this legislation. This is the very expectation that Congress will come back some point with clearer heads and a much better understanding of the importance of the partnership between our Government and our agricultural industry and recognizing that some continuation of farm programs is necessary.

So if I were a farmer, I would say, “Well, look, if I am going to get a good price and I am also going to get a good payment, why not take it? Why not accept it?”

If I were a farmer, as pressed as they are today, I would take it too. I would not argue against it. But that does not make it right. Economically and financially, it is right for every farmer. If they have the chance legally to do what they want to do, but as policymakers, it is not right for us, if we are providing huge payments to farmers at times when farm prices are as high as they are.

So, Mr. President, for all those reasons, I intend to oppose this legislation. I will vote against it tomorrow. I hope that we will come back and recognize that we can do better than this. We need to do better than this. While that is not an answer, I am very enthusiastic about and certain aspects of this legislation that I appreciate having.

I am very enthusiastic about and certain aspects of this legislation. I am very enthusiastic about the flexibility this legislation represents and the value-added product development. Value-added product development is our long-term future in agriculture. Hopefully, through the Fund for Rural America, value-added processing facilities of all kinds can be considered, financed and built.

I also think that the increased flexibility this legislation represents is something we should applaud. Simplification is something that I think is more uncertain, but I do believe the goal intended in this legislation to simplify our current program is something everyone supports.

Perhaps, of all things, retaining permanent law is one of the most important aspects of this legislation that I am very enthusiastic about and certainly appreciate having.

This farm bill, Mr. President, is long overdue. It did not happen in 1995. It will now happen in 1996. 1995 is wasted. It was tied to the budget—the first time this has happened since 1947. Unfortunately, it has taken too long. Unfortunately, we are now at a time when farmers need certainty more than ever. It is too late to start over. The winter wheat crop will soon be harvested. Southern crops are already in the ground. Midwestern farmers are already beginning to plan their planting for this year. They do not know what the farm programs will be until we enact them into law.

The time for action is long overdue. The President has indicated he will sign the farm bill. He is forced to sign a bad bill because of the late date. He, as I do, has deep concerns about the safety net and the decoupling this represents. He has pledged to propose new legislation next year. I believe the public will demand it in less than a year’s time.

The bottom line is we have to go back and make improvements, do a better job in a constructive way of addressing the deficiencies that I have pointed out tonight. To paraphrase a famous actor in a popular movie, “We will be back.”

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The chairman of the Senate Agriculture Committee.

Mr. LUGAR. Mr. President, I yield 10 minutes to the distinguished Senator from Washington [Mr. GORTON].

The PRESIDING OFFICER. The Senator from Washington has been yielded 10 minutes to the distinguished Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, the distinguished chairman of the Senate Agriculture Committee, the Senator from Indiana, has spent much of his time over the course of the last year as a candidate for President of the United States. He traveled about the country, speaking calmly, without invective, with common sense to the American people.

The American people in large measure did not listen to that message, thoughtful as it was. In his usual gracious fashion, the Senator from Indiana, when that became apparent, withdrew, and endorsed the candidacy of our joint good friend, the majority leader of this Senate.

I must say that in some sense the loss of the people of the United States in that candidacy directly resulted in the great gain to the people of the United States in the construction of this farm bill. It made not dramatic change in agricultural policy since the 1930’s, one of great thoughtfulness and great promise not only for our agricultural community but for the people of the world in providing for them more and better food prospects.

So I express my deep gratitude to the Senator from Indiana for his magnificent work in that connection. I also express my deep gratitude to the Senator from Idaho for his magnificent work in that connection, for his long-term interest in the food policies of this country.

I cannot let this part of my remarks go without also remarking on the actions of the Acting President of the Senate, the Senator from Idaho. I believe he is the only western member of the Agriculture Committee who specifically directed his attention at the needs for various policies for the farm community of the Pacific Northwest. Washingtonians are to be commended, and his attention to the problem of those ranchers is a matter for which I am most grateful. But particularly the Senator from Idaho was an eloquent advocate of the so-called Brown amendment during the consideration of the farm bill. That was an issue of great importance, not just to people in agriculture but to people in cities and towns and communities all over the West.

The President of the United States, in his State of the Union Address, repeatedly spoke about a smaller and less intrusive Government. But agency after agency in his administration in Washington, DC, has been busily at work in the past year and the reorganization of the Forest Service has been a very significant step forward as an example of an active Government.

We share extensive wheat ranching, particularly over their lives in the West, where water is such a great necessity. This aggrandizement was particularly important as the acting Forest Service commissioner and the Forest Service has been attempting to require water permit holders, some with permits more than 100 years old, in many Western States literally to donate to the Forest Service a significant portion of their water rights as a condition for the issuance or reissuance of their permits.

Led by the Senator from Idaho, the conferees agreed at least to an 18-month moratorium on these Forest Service demands. They agreed to create a water task force to study Federal water policy and water rights across Federal lands, and no later than 1 year after the enactment of this bill to submit recommendations to the Congress on how best to resolve the controversy. Obviously, I would have preferred, to see language that would have permanently prohibited the Forest Service from this practice. But at least this gives us relief for the time being and an opportunity to take an objective look at these demands and to deal with them at length in the Congress later. So I must say that Washington State agriculture thanks the Senator from Idaho for his magnificent work in that connection.

Overall, the 1996 farm bill is a wonderful step forward. As a member of the Senate Budget Committee, I am delighted it makes a contribution toward a balanced budget both, as the Senator from Idaho said, in allowing us to precisely to determine how much money will be spent with respect to income support and in the promise of a significant contribution toward a balanced budget within a 7-year period. We are more significant is the fact that this bill is a dramatic step toward a free market economy in agricultural policy. Farmers and ranchers all across...
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our country have asked for freedom from Government regulation, for the right to farm to the market rather than to particular programs, and to be able to respond to the demands of emerging world markets. No longer will we be told by the Federal Government what crop to plant, when to plant it, and how much to plant. These decisions ought to belong to the farmer, and now they will belong to that farmer.

One more detail: I am delighted to see the conference agree to authorize the Market Promotion Program, I believe now called the Market Access Program, at $90 million. This program is vitally important to all agricultural exports. It is particularly important in Washington State. In the last decade, for example, we have seen an increase in apple exports from 4.3 million cartons to 25.1 million cartons, an increase of more than 500 percent, enriching growers in the State of Washington and making a real contribution to lower our trade deficit. The Market Promotion Program has made a significant contribution to that increase.

With the implementation of the General Agreement on Tariffs and Trade and the North American Free Trade Agreement, we will see an increased demand for agricultural exports. I believe that both will successfully open new worldwide markets for United States agriculture. As a consequence, we need to provide our farmers with the ability to develop, maintain, and expand commercial export markets, and the Market Access Program will help us do exactly that.

As does the President, I believe in a smaller and less intrusive Government. The 1996 farm bill represents that less intrusive Government, a Government with faith in its farmers, its ranchers, and its local communities to make decisions for themselves. Simply put, this farm bill puts the decision-making process back in the hands of the farmer and gets the Federal Government significantly out of the business of telling our farmers how to farm. I enthusiastically support its adoption and its transition into the law of the United States.

The PRESIDING OFFICER (Mr. Grassley). The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself to the time allotted to the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, all my life, before and during my last quarter of a century of continuous high service as either the Governor of Nebraska or the last 18 years as a Member of the U.S. Senate, having the great honor of representing the great State of Nebraska, there can be no question—and the record will show—that I have been an outspoken supporter of farm legislation, farmers, and what is good for rural America. With that background, I simply want to say about the farm bill that will pass tomorrow, without my support— it will pass, the die is cast, it is all over—but we cannot allow this to go forward without reviewing once again many of the concerns that myself and others from the Farm Belt have had with the Freedom To Farm Act.

No. 1, if you remember back last year when we were having the budget debate—and I happened to be the ranking Democrat on the Budget Committee—we heard all these talking points about how we are going to take that farm program and we are going to help balance the budget in the year 2002 by reducing it. There were the magnificent figures bandied about as to how much we could save by the farm bill that the Republican majority was going to pass.

Obviously, I say, as a farm supporter all my life, this conference report is a sham as far as sound agricultural policy is concerned, and it is a sham as far as the taxpayers are concerned. According to the Budget Office, this conference report which we will vote on tomorrow will cost $3.2 billion more than the current law for 1996 and $1.4 billion more than current law in 1997. There is no savings, as the chief of staff of the Senate Budget Committee has said publicly.

If anyone thinks that this measure contributes anything to balancing the budget, the opposite is true. That would not be so bad if we were taking this money and applying it as a safety net. That is what the farm programs have always been about, providing a safety net, not dishing out money to farmers for doing nothing.

This conference report is also a sham to farmers. The so-called 7-year contract with the transition payments stick out like a sore thumb. In future budget negotiations and allocations, reductions, in my view, are all but inevitable, when everyone finds out what this ill-conceived, ill-advised bill does. Once again, let us have a thorough understanding of what the farm program will do in the year 2002, that when this program and the cost of the program is fully explained to the people, the well will be so poisoned that we will never have the votes for a workable farm program.

My public life is in defending and protecting farmers and rural America, I and others of us on both sides of the issue before the Senate, I might add, have fought continually to explain the need for a sound agricultural policy in America.

How sound is it? Pretty good. Most of the people do not understand that while they might think food costs are too high, the facts of the matter are, Mr. President, that the people of the United States of America have reaped the benefits of a sound farm program. We in the United States of America have the cheapest food costs of any nation in the industrialized world.

I simply say that this particular Freedom To Farm Act, with its hefty payments from taxpayers to the farmers of America, is sure not good for the farmers who want to take over after that 7-year period.

How good is it? Well, Mr. President, there has been talk on the floor tonight about, I believe one speaker said this bill is a chance for a farmer to make more money than ever before—I tend to agree with that—in many instances, maybe for doing nothing.

This particular measure authorizes an expenditure over 7 years of $47 billion. Do you know what, Mr. President,
$36 billion of that $47 billion will go out for payments that another speaker in this regard said is good, because then we will know exactly how much money will be spent for price support programs. We sure do, and we know what it is $36 billion. As another speaker said, with a chance to make more money than they ever made before.

I think it is wonderful. I support the concept of the marketplace. When the farmer can make a good living, an outstanding living, on the price of the marketplace, that is fine with me. That is the way it should work. But what this particular measure overlooks is that there is no safety net, and there will not be after 7 years when the price goes down. And I yield myself what additional time I might need under the time reserved for the minority leader—I would like to explain to the Senate just how bad this program is and how I think the well will be poisoned so that we can never ever again muster the votes in the House or the Senate for a workable farm program.

Under the freedom to farm bill, with its transition payments—let us talk about what these are. I would like to give you a specific or two. Under the act that was passed, let us take a 500-acre corn farm—that is not small; that is not big; that is probably somewhere near the average—a 500-acre corn farm would have had the same price for the bushel—and that is not a high or a low yield; that would be somewhere in the middle, somewhere in the average—and the cash market price that that farmer received for growing 120 bushels on a 500-acre farm would be a little lower than the cash price in the marketplace of $3.10—and it is near $3.40 today, so this is just an approximation—you take the 500 acres at 120 bushels per acre, that is 60,000 bushels, and you measure that 60,000 bushels by the cash price of $3.10, Mr. President, and you find that that particular farmer would have a gross cash income of $186,000 for 1 year. That is not net; that is gross.

Under the transition payments that are embodied in this particular measure, that same farmer would receive an additional check, which I can only say is probably welfare, of $22,000 from the Government on top of the $186,000 of gross cash income, obviously for a gross income of well over $200,000.

There is nothing wrong, Mr. President, with the present situation of a good price in the marketplace for corn. But it is terribly wrong, in my view, when we are trying to cut down the cost of Government and when we are attacking welfare payments that have to be cut, to envision, as has been described on the floor of the United States Senate, that these transition payments will continue regardless of what happens.

That means, Mr. President, that even if the farmer does not plant a crop under the example that I just gave, if he did not do anything, he would receive the $22,000 payment, I guess, for owning the land.

Mr. President, I am very concerned about this bill. I will not take any further time of the Senate tonight because, as I said, the die is cast. I will vote against this bill tomorrow for the reasons that I expressed tonight. If anyone should ever be interested in the further details, I would make reference to the CONGRESSIONAL RECORD of March 12, 1996, when this Senator went into great detail and cited background materials, who understand farm policy and why we are voting against this measure.

It is bad farm policy. It is bad Government policy. But I certainly agree, Mr. President, that it is good for the established farmer over the next 7 years. Let me put it this way: If you are a 57-year-old farmer today, with your land paid for, you are going to have not only a good income, but a handsome income for the next 7 years. If you are 57 or 58 years old, which the average farmer in the United States is today, and you accept this program, you are going to be in pretty good shape, I would suggest, for the next 7 years.

What about the son or daughter who wants to take over the farm? This measure, I emphasize once again, in my opinion, will do poison the well that we might never be able to have the stability that is necessary, because farming is a risky and expensive business, to promote the idea that there is no safety net that I think is absolutely essential for the stability of our farms after the year 2002.

I do not want to be overcritical of many of my friends that I have worked with on farm policy for long, long years. They may have—I am sure that they do have—sincere beliefs that this is a good farm program. My experience and my study of the bill indicates that that is not the fact. But I also realize and recognize that the majority in the House and the majority in the Senate do not agree with me. I think the President has no option, given the late date that we are finally getting around to passing a farm bill, that this measure, against my wishes, will become the law of the land. We will see how it works out for the next 7 years. Let me put it this way: If you are a 57-year-old farmer today, with your land paid for, you are going to have a 57-year-old farmer today, with your land paid for, you are going to have a hand income for the next 7 years. If you are 57 or 58 years old, which the average farmer in the United States is today, and you accept this program, you are going to be in pretty good shape, I would suggest, for the next 7 years.

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daughters? What will happen to them? Here, honest Senators will disagree. My own view, having four sons, and trying very hard to make certain that the farm can be passed along to them, as my dad passed along the farm that I now work on today, I have a lot of optimism for them.

I believe, Mr. President, that the income that will come to farmers in the next 7 years will lead to an increase in land values. I believe the Lugar farm will be a great deal; it is in 7 years. I believe there will be income throughout that 7-year period of time which will make it even stronger than it is now. That is the legacy we pass along. We do so, I think, as farmers, as Senators, as people trying to deal in good farm policy.

Let me just point out that the Senator from Nebraska is correct that the loan rate for corn at $1.89 does not change in this bill. It is capped. Mr. President, we have already discussed the point this evening that the current price of corn in some elevators around the country approaches $4. The Senator from Nebraska pointed out, using perhaps an average price predicted for 1996, $3.10, which is well above both the target loan rate and the average price. I believe the reforms necessary for American farmers to compete in an increasingly global market. The most important aspect of this bill is that we have accomplished reform without jeopardizing our fragile rural economy. The programs, and I am a member of the Agriculture Committee, I can attest that we have been very careful to allow for economic adjustment in these communities, and have allowed our farmers the opportunity to participate in the decisionmaking process. This is Democracy at its finest.

The new farm bill is benevolent in its flexibility and in maintaining establishing a traditional safety net for producers. No longer will farmers in my home State of Georgia be required to simply plant for the program. These farmers can now evaluate the market conditions and plant the crops that will allow them to reap the greatest profit. This liberation of our hard-earned investment, along with the reforms necessary for American agriculture, this bill, appropriately titled the Federal Agricultural Improvement and Reform Act. Mr. President, the title of this legislation is appropriate, because I truly believe we have improved our agricultural programs, while ensuring the reforms necessary for American farmers to compete in an increasingly global market. The most important aspect of this bill is that we have accomplished reform without jeopardizing our fragile rural economy. The programs, and I am a member of the Agriculture Committee, I can attest that we have been very careful to allow for economic adjustment in these communities, and have allowed our farmers the opportunity to participate in the decisionmaking process. This is Democracy at its finest.

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of this program, it is the intention of the managers of this conference report that the Secretary of Agriculture extend the provisions of current regulations governing entry into the marketing loan and establishment of the repayment rate. Also, it is the intention that the Secretary of Agriculture continue to establish the prevailing world price for upland cotton in the same manner utilized for the 1991 through 1995 crops.

This farm bill preserves and enhances many of our successful environmental and conservation programs. For example, the Conservation Reserve Program is reauthorized and existing participants are eligible to reapply upon expiration of their contracts. The Wetlands Reserve Program is a new cost-share program for landowners, which will promote the implementation of essential management practices to improve wildlife habitat.

I feel that this farm bill conference report would cause a great deal of confusion and economic hardship for many of our Nation's farmers. This outcome will not be acceptable for farmers, consumers or taxpayers. Our farm program is not to go to work for them, but they need to know what the programs are going to be so they can make rational and thoughtful decisions. The Government's role in providing stability and an orderly transition to a market economy in agriculture is very important, and our commitment to this goal can be seen in this farm bill conference report.

This farm bill ensures our commitment to protecting and building upon our public and private investments in agriculture and rural America. Mr. President, it is time to act and I urge my colleagues to support passage of this farm bill conference report.

Mr. LUGAR. Mr. President, I point out that these Senators, Senator COVERDELL and Senator COCHRAN, are distinguished members of the Agriculture Committee and have contributed substantially to the legislation we have before the Senate.

Mr. EXON. Mr. President, I think the Senator from Indiana knows my high respect for him. We have worked together on many occasions over the years. I happen to think that he was one of the better qualified Republican candidates for President of the United States, and I saw the gentlemanly type of campaign that he ran. I was rather surprised that he did not catch on more than he did, but then, gentlemen do not always win.

We are at odds under the present bill. My point is, I want to drive it home once again, the Senator from Indiana is going to be the chair of the Agriculture Committee. The Wildlife Habitat Incentives Program is a new cost-share program for landowners, which will promote the implementation of essential management practices to improve wildlife habitat.

The main difference of opinion on this whole matter between the Senator from Indiana, my friend, and myself is that I do not think the concept that he is outlining, while it sounds like a better scenario to me than what this bill is intending to do, I am simply afraid there will not be the votes in the Senate or the House to make changes that the Senator from Indiana has at least indicated might be made and might be recommended at some future date. That is the crux, I think, of the difference between the point of view being expressed by the Senator from Indiana and the Senator from Nebraska.

I yield the floor.

Mr. LUGAR. Mr. President, I ask for the amount of time that remains under the control of the three Senators.

The PRESIDING OFFICER. The Senator from Indiana controls 85 minutes; the Democratic leader controls 138 minutes; and Senator LEAHY from Vermont controls 60 minutes.

MORNING BUSINESS

Mr. LUGAR. I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOW MUCH FOREIGN OIL IS CONSUMED BY UNITED STATES?

Here's Weekly Box Score

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending March 22, the U.S. imported 6,594,000 barrels of oil each day, 347,000 barrels more than the 6,247,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there is no sign that this upward trend will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity that will occur in America if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 6,594,000 barrels a day.

The Bad Debt Box Score

Mr. HELMS. Mr. President, at the close of business yesterday, March 26, 1996, the Federal debt stood at $5,066,587,916,694.66.

On a per capita basis, every man, woman, and child in America owes $19,154.54 as his or her share of this debt.

Propane Education and Research Act

Mr. FAIRCLOTH. Mr. President, I rise today to speak on behalf of the Propane Education and Research Act. Mr. President, North Carolina depends heavily on the use of propane as an energy source. As a matter of fact, our State ranks as the sixth largest consumer of propane fuel in the country—consuming over 500 million gallons in 1994 alone.

Propane is a low-cost energy source. For this reason, residential and farm use is abundant throughout our State. The propane industry has recognized that consumption is on a steady rise. To respond to the increased demand on the industry, producers and marketers have recognized a real need to launch a research and development program of their own. They know that a strong research and development program would increase the safety of propane and create greater efficiency in its use, and assist them in exploring the endless opportunities of new usages.
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But to truly understand propane, you must take a hard look at the makeup of the industry. The industry is only 165 producers strong with about 5,000 retail marketers. The resources necessary to implement a strong research and development program for this industry are limited.

That’s where the Propane Education and Efficiency Act comes into focus. PERA provides the propane industry an opportunity to establish a checkoff program that would collect one-tenth of one cent per gallon of the wholesale cost of propane. The proceeds would go toward a fund designed for research and development, education and safety.

Propane is the only energy source that is not supported by Federal research dollars. This industry-financed program gives an industry with limited resources the opportunity to enhance their product without coming to the Federal trough for help.

I commend the leadership of propane industry leaders in North Carolina and the Nation as a whole for recognizing their needs and taking the initiative to find a solution that will work without an increased burden on taxpayers.

As an original cosponsor of this bill, I thank my good friend from Arizona in any way to see that this bill moves forward.

I thank the Chair.

Mr. WARNER. Mr. President, as chairman of the Senate Committee on Rules and Administration, and as a proud Virginian, it is my pleasure to commend a fellow Virginian, Mr. John Kluge of Charlottesville, VA, for his contribution to the Library of Congress.

Born in Chemnitz, Germany, Mr. Kluge came to America when he was 8 years old and has become one of the Nation’s most respected business leaders and one of its most generous humanitarians.

In 1990, John Kluge became the first chairman of the James Madison Council of the Library of Congress. The Madison Council, the Library’s first private-sector support group in its 190-year history, plays a vital role in raising the visibility of the Library and promoting awareness and use of its collections. Its members include leaders in business, society, and philanthropy from across the Nation who are known for their commitment to education and scholarship. In its short history the Madison Council has funded over 50 programs, including fellowships for young scholars, publications and television programs, public exhibitions, scholarly conferences, centers of excellence that draw top thinkers to the Library to use and enhance its collections, a special acquisitions fund, and much more. Just recently, the council reached its goal of 100 founding members, set by John Kluge 6 years ago.

John Kluge has been the foremost private donor in the Library’s history, personally giving nearly $8 million to the Library. His biggest single contribution was $5 million for the National Digital Library, which is the brainchild of the Librarian of Congress, James Billington. Launched in 1994 with commitments of support from the Library and donors like Mr. Kluge, the National Digital Library is providing free unique content for the information superhighway opening new gateways to education for all Americans. Other projects to which John Kluge has generously included the magnificent Vatican Library exhibition, the Leadership Development Program, an exhibition of here-tofore unseen documents from the Soviet state archives, and purchase of a major collection of sound recordings.

By personally working on behalf of the Library of Congress, arranging meetings with potential supporters, giving of his own personal time, and bringing together an outstanding group of distinguished individuals who truly care about their national library and support it with their time, ideas, and financial contributions, John Kluge has made the Madison Council what it is today—a model of how the private sector can focus its resources within a public institution and make an important difference.

Because of John Kluge, millions more Americans know about our Nation’s great Library which Congress has built and supported for almost 200 years, and they understand its importance in the history of our Nation.

John Kluge is one of the great philanthropists in America today. His contributions to the Library of Congress and the Nation have been immense. It is my privilege to commend him for his achievements.

MINIMUM WAGE

Mr. SARBANES. Mr. President, I rise today to express my strong disappointment that the Republican leadership will not allow a straight up-or-down vote on legislation to increase the Federal minimum wage. The Congress is long overdue in acting upon legislation which would establish a more realistic wage standard for the American worker and I would hope that the Senate has the opportunity to express its will on this matter—one so critical to working families—in the near future.

It would seem to me that the issue is a relatively simple one. As many of my colleagues will recall, under the Bush administration, the Senate voted overwhelmingly to enact an increase similar to the one being proposed today. In 1989, by a vote of 89-8, the Senate approved legislation which raised the minimum wage by 45 cents in 1990 and again in 1991 to bring it to its current level of $4.25 per hour. The proposal being put forward by myself and others includes the 50 cents increase—45 cents this year and another 45 cents in 1997—raising the minimum wage to $5.15. It is my strongly held view that such an action, like that taken in the 101st Congress, would appropriately reflect the values and beliefs at the very core of our society—the idea that if you work hard and play by the rules, you deserve the opportunity to get ahead.

In my own State of Maryland, the city of Baltimore has been at the forefront of efforts to assure hard-working Marylanders receive a decent living wage. Just last year, Baltimore’s Mayor Kurt Schmoke signed the Nation’s first prevailing wage law which stipulates that all new or renegotiated contracts with the city of Baltimore must provide a minimum wage of at least $6.10 per hour. Baltimore’s ground-breaking public policy initiative should serve as an example to cities across the Nation and, in my view, provides an ideal model for the U.S. Congress.

As we all well know, the real value of the minimum wage has deteriorated markedly since 1979. At its current level of $4.25 per hour, the minimum wage will fall to its lowest real value in 40 years if Congress fails to take action. In the late 1950’s the real value of the minimum wage was more than $5 per hour by today’s standards and in the mid-1960’s it peaked at $6.28.

However, Congress’ failure to respond to inflation over the past 20 years has resulted in a 27-percent decline in the real value of the minimum wage. Since 1979, it has dropped 50 cents since 1991. Since April 1991, the cost of living has risen 11 percent while the minimum wage has remained constant at $4.25.

The decrease in the value of the minimum wage has served to widen the gulf between the wealthiest and the poorest of our society. In an effort to offset this decline, I strongly supported President Clinton’s expansion of the Earned Income Tax Credit [EITC] which raised the income of 15 million low-income individuals above the poverty line. However, this is not enough. Even with the EITC expansion, a family of three with one full-time wage earner working year round at the current minimum wage brings home $8,500 and could receive a tax credit of $3,400 for a total annual income of $11,900. According to the Congressional Budget Office [CBO], the poverty level for a family of three in the United States stands at approximately $12,557. Therefore, at the current minimum wage, workers can work full-time for an entire year, qualify for the EITC and still fall some $657 below the poverty line. While the EITC is a critically important public policy initiative to assist low-income families, it should not be viewed as a substitute for a consistent, decent wage.

Opponents of increasing the minimum wage frequently argue that the typical minimum wage earner is a teenager simply working after school to earn a little extra spending money and that the Government should not be supplementing the incomes of this
Americans. Measures to protect workers from unfair and unsafe working conditions were enacted under the belief that, as a society, we should support a basic standard of living for all Americans. It is in this spirit that minimum wage laws have been updated throughout the years.

As long as Congress fail to act, we send the message to working families across the country that hard work and sound living are not enough. Nearly two-thirds of minimum wage earners are struggling to make ends meet, working hard and sound living are not enough. Nearly two-thirds of minimum wage earners are struggling to achieve a decent standard of living for themselves and their families. The objective of the minimum wage is to make work pay well enough to keep families out of poverty and off Government assistance. An hourly rate of $4.25 is not enough to cover the average living expenses of a family of three. It is unthinkable that in what is arguably the wealthiest nation in the world, there are families out there right now having to choose between food for their children and heat for their homes. If a family of three can barely get by on $4.25 an hour, how can a single mother—trying to stay off welfare—be expected to be able to provide food, clothing, shelter, medical care and child care on the current minimum wage? Instead of maintaining barriers to self-sufficiency, we should be helping to tear them down.

Mr. PRESIDENT, Americans want to work. They want to be able to adequately provide for themselves and their families. But they are working harder for less and are becoming increasingly frustrated in the process. It is critical that we recognize the reality of minimum wage earners and take steps to help them rise above poverty. President Roosevelt once called for “a fair day’s pay for a fair day’s work.” The American worker deserves no less. Many of those who supported the minimum wage increase in 1989 are here today and I would urge them to join me in calling for vote on this important measure.

UNITED STATES/FRANCE AVIATION RELATIONS

Mr. PRESSLER. Mr. President, I rise today to discuss the important issue of United States aviation relations with the Government of France. Although the immediate crisis concerning the closure of Charles de Gaulle aerodrome apparently has been resolved, I remain very concerned about the state of U.S./French aviation relations.

As a result of France’s decision in 1992 to renounce the bilateral aviation agreement that existed between our two countries, France currently is our only major aviation trading partner with whom we do not have an air service agreement. Although the immediate crisis concerning the closure of Charles de Gaulle aerodrome apparently has been resolved, I remain very concerned about the state of U.S./French aviation relations.

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one year with neighboring countries including Belgium and Switzerland, will surely cause the rate of ongoing connecting passenger traffic diversion away from Paris airports to accelerate. In particular, I fully expect German airports will press France hard in this competition for connecting passenger traffic.

Third, Air France, the intended beneficiary of France's decision to renounce the U.S./French air service agreement, has been caught unprepared as a result of France's policy of managed stagnation. It is true that state-owned Air France has increased its share of the U.S./French market from 29 percent in 1992 to 37 percent in late 1995. However, this rebalancing of market share, which in large part resulted from U.S. carriers routing connecting passengers to international gateway airports in other continental European countries, has come at an inordinately high price. France's decision to tear up its air service agreement with the United States has in effect pitted the North American carrier against the French carrier. As a result, Air France's traffic grew 30 percent—ten times faster than it did in the French market. Amazingly, this tremendous growth does not reflect the U.S./Switzerland open skies accord signed last March 27, 1996.

The net effect of these vastly different policies also is illustrated dramatically by the aggregate size of both countries' passenger market with the United States. In 1992, the U.S./French passenger market was 100 percent larger than the U.S./Dutch market. By 1994, it was just 60 percent larger. What a difference two air service policies with the United States can make!

Improved French policy and trade agreements necessarily have the reverse effect. I ask unanimous consent that the text of the editorial from the Bangkok Post to which I have referred be printed in the Record at the conclusion of my remarks.

Mr. PRESSLER. Mr. President, let me conclude by saying I hope France will recognize its air service policy with the United States is an economic failure that is exacting a very high cost in terms of lost jobs and other commercial opportunities. To remedy this situation, I hope France will renew its formal aviation relations with the United States by agreeing to a liberal air service agreement. As the Commission of the European Communities recently noted, restating its formal aviation relations with the United States is an economic failure that is exacting a very high cost in terms of lost jobs and other commercial opportunities. I hope President Chirac will take immediate steps to negotiate a liberal air service agreement with the United States. As former French Prime Minister Edouard Balladur astutely warned, "a victory for common sense."
Ambassador Chrobog and I met through our mutual love of opera. We also share a belief that the economic benefits of liberalized trade between nations is a two-way street. Mr. Ambassador, I am pleased that you made it clear that the United States and Japan are on the brink of signing an open skies agreement of truly historic magnitude. Such an agreement will be momentous for both nations and will be a catalytic force in liberalizing the enormous U.S.-E.U. air service market. In pursuing this initiative, I believe Germany is providing outstanding leadership for all of its European Union partners.

Carol and Charlie, I am also pleased you are able to be here today. Carol and I share a common challenge. Each of us is trying to make sure that we realize the tremendous things can happen to them when they work together as an industry. Robust competition and long-term economic growth are mutually exclusive. In fact, I would argue they can, and indeed should, go hand-in-hand. Charlie, as you will unfortunately experience firsthand, much work remains to be done in this regard.

For Valentine's Day I had considered making sugar-coated remarks extolling the numerous benefits of a U.S./German open skies agreement. I decided, however, to save that speech for another day. The bitter sweet reality of U.S. international aviation policy is that each of our major partners is being thrown under the bus as a possible U.S./Germany open skies agreement—just met by parochial interests among our carriers. Regrettably, I fully expect efforts to finalize the U.S./German open skies agreement will not escape this plague.

Let me say that I firmly believe pernicious infighting among our carriers is the single greatest barrier to the United States efforts to open up and expand global air service markets for U.S. carriers. It is a sad story which is played out time and time again.

As leaders in the aviation community, I come to you today with a challenge. I challenge you to make your focus the American flag on the tail of airplanes providing new service opportunities, not the name on the side of the plane.

With that challenge in mind, let me now turn to my specific remarks. Today I want to focus on exciting developments and old challenges in Europe. Of course, I speak for many countries in Europe and for the United Kingdom respectively. However, since your last three speakers discussed U.S.-Japan aviation relations—a subject in which I have a very keen interest—I cannot resist mentioning a few points.

First, I am deeply troubled the Government of Japan continues to refuse to respect the biodiversity of our so-called U.S. carriers. Those rights are guaranteed by the U.S.-Japan air service agreement. International agreements between countries are sacred trusts and nothing short of full compliance is acceptable.

Second, I am also very concerned about the Kyoto Forum which the Japanese organized recently. By excluding the United States and Kyoto Forum which the Japanese organized, the Japanese are exploiting between the United States and Japan regarding the limited Fifth Freedom opportunities that Japanese carriers are exploiting between the Asia-Pacific market and the United States. Viewed from this perspective, Japan's so-called U.S.-Japan open skies agreement is within reach? Secretary Pen˜a criticizes, Japanese carriers had a larger market share than U.S. carriers. As you will unfortunately experience firsthand, much work remains to be done in this regard.

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Let me share two truly remarkable facts which dramatically change the picture. Last year, British Airways had a larger share of the U.S.-U.K. passenger market than all U.S. carriers combined! Also, data shows that in terms of U.S.-U.K. market share, two of the top three carriers are British airlines! Without question, market forces are not controlling the distribution of air service opportunities between the United States and Britain.

How will competitive forces unleashed by a U.S./German open skies agreement pressure Britain to reassess its avowed no-tariffs-for-competition policy which tarnishes an otherwise very impressive record on liberalizing transatlantic trade? The answer lies at two levels: heightened competition by continental European airports for connecting passenger traffic and enhanced competition by U.S. carrier alliances against British airlines.

London always will be a popular destination for passengers originating in the United States. That is not to say, however, that in this era of global networks, connecting passengers will continue to feel a compelling need to use Heathrow rather than airports such as Amsterdam's Schipol, Frankfurt or the new one planned at Berlin-Brandenburg. Competition by continental European airports for connecting passenger traffic and enhanced competition by U.S. carrier alliances against British airlines, can always be a popular destination for passengers originating in the United States. That is not to say, however, that in this era of global networks, connecting passengers will continue to feel a compelling need to use Heathrow rather than airports such as Amsterdam's Schipol, Frankfurt or the new one planned at Berlin-Brandenburg.

Before I discuss how this tide of liberalization will reach the shores of the United Kingdom, let me address an issue that has come to my attention recently regarding the framework of the U.S./German open skies agreement.

I understand a question has been raised about the timing of when the U.S./Germany open skies agreement would take full force relative to a final decision on an application for antitrust immunity which is expected to be filed by the United Airlines/Lufthansa alliance. I do not consider this to be a problem. I have total confidence in Secretary Pen˜a's ability to fully and fairly discharge his statutory responsibility to consider an application for antitrust immunity when it is filed, regardless of when the agreement goes into effect. I feel compelled to add that I am somewhat mystified that some of our carriers continue to see some merit in delaying the agreement, if ever. The British market and the U.S./U.K. market share is what the Government of Japan seeks, it should look no further than to itself for a model. These carriers have already proven they can compete more effectively with U.S. carriers. It is critical we not forget that just 10 years ago, the under the very bilateral agreement that the Government of Japan now criticizes, Japanese carriers had a larger market share and held transatlantic routes than U.S. competitors.

Fourth, the open skies agreement by the Government of Japan regarding the limited Fifth Freedom opportunities of our carriers must be put in proper context by considering the enormous new opportunities that Japanese carriers are exploiting between the Asia-Pacific market and the United States. Viewed from this perspective, Japan's so-called U.S.-Japan open skies agreement is within reach? Secretary Pen˜a criticizes, Japanese carriers had a larger market share than U.S. carriers. As you will unfortunately experience firsthand, much work remains to be done in this regard.

Finally, in a floor speech on October 27th, I called on our so-called MOU carriers to avoid some of the cost of trade-offs for the faithfulness of the U.S. carriers. I urged them to make their case with numbers, not rhetoric. I find it a bit odd that MOU carriers who criticize DOT for not doing adequate prenegotiation economic analysis are now pushing DOT to rush into passenger talks, even though these carriers have yet to produce such economic analysis which supports their position.

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Liberalization of air service markets on the European continent have created new connecting service options. Evidence already clearly shows connecting traffic is being diverted to London. Statistics dramatically illustrate this point. Between 1992 and 1994, connecting traffic carried on U.S. airlines grew just 3 percent at Heathrow. During the same period, U.S. connecting traffic grew 24 percent at Frankfurt and an astounding 329 percent at Schiphol! An open skies agreement with Germany will greatly accelerate the rate of this connecting passenger diversion.

These statistics are very interesting but should they matter to a British policymaker? Absolutely. This trend should raise serious concerns considering that last year alone connecting traffic accounted for more than 1 billion pounds of export earnings for the United Kingdom.

A U.S./German open skies agreement will also make U.S. alliances with European carriers even more formidable competitors in the U.S./European air service market. This will not be a welcome development for British carriers. If the United and Delta alliances are granted immunity, in competition with the Northwest alliance, nearly 50 percent of passenger traffic between the United States and Europe will be carried on fully immunized U.S. carriers.

Will this pose a competitive challenge for British carriers? Investors in British Airways surely think so. According to a Financial Times’ survey, 49 percent of 30 percent of British Airways shares fell on the news of the “preliminary open skies’ deal struck between Germany and the United States.” British Airways public attack on antitrust immunity last month at an ABA conference also is very telling on this point. Private British Airways has made it very much clear they will challenge immunity for their alliance with USAir.

Where do we go from here? I think U.S./U.K. negotiations should resume, but not on the terms of the October offer which was highly conditioned and essentially allowed the British to pick which U.S. carriers competed against British carriers in what markets. Instead, I encourage the British to come to the table with a “bigger, bolder and braver” approach.

First, to help clear the way for more ambitious negotiations, I am announcing today that I plan to introduce legislation to increase to 49 percent the level of permissible foreign investment in U.S. airlines. I am already working with the Administration to determine a formulation to maximize the benefits of this tool. One thing is certain, the limited, highly conditioned October offer would not trigger the benefits of the bill I intend to introduce.

Second, I also am calling today for U.S. carriers to be “pennypinching and foolish” with respect to Fly America traffic. As a taxpayer, I want the U.S. government to pay the most competitive price for government travel. As a policymaker, I find nothing in the legislative history of the Fly America statute even suggesting that governments are having extreme difficult dismantling. There is no logical explanation for the structure any more; it’s just the way it’s done, especially in the absence of an alternative. Every country has to take its own course of action. In Thailand’s case, every airline that comes here or increases its presence in the country, providing more jobs, bringing more tourists. Restricting those operations necessarily has the reverse effect.

Foreign airlines serving Bangkok now need to forge stronger relationships with Thai hotels and tour operators, work with them, and use their political and economic strength to get what they want. This approach must, under no circumstances, be adversarial or aggressive, but always rational and constructive. If Thailand is in the dumps, and likely to remain there for at least a few years as it seeks to regain its erstwhile prestige, there is no reason why other airlines should be hampered from raising their frequencies and bringing more tourists to spend their money in Thailand.

The U.S.-Thai deal is a clear victory for the concept of conducting the aviation business in an open and competitive manner. Because no matter what happens, it should always be the public that should benefit.

TRIBUTE TO EDMUND S. MUSKIE

Ms. MIKULSKI. Mr. President, I rise to pay tribute to the remarkable life of Edmund S. Muskie. He was a great American, a true statesman, and I’m proud to say, a good friend.

Mr. President, I am the first woman of Polish heritage ever elected to the Senate. Edmund Muskie was a leader in my election, since we shared a common heritage and a common set of values. He was gracious in helping me to learn the ways of the Senate. He was a
strong mentor, and I have always been appreciative of the sound advice and concrete suggestions he offered to me.

He offered all of us a model of what a Senator should be. He stuck to principles, never afraid to take on the powers that be. He fought for what we believed in, but never grudges. Edmund Muskie believed, as I do, that programs must deliver what they promise.

He made change his ally, and was never content to pass by what he had been doing wasn’t working, he fought to fix it. And he sought always to build consensus, to serve as a voice of moderation and practicality—in keeping with his New England roots.

It was proud to be a national co-chair of his campaign for the Presidency in 1972. It still strikes me as a great injustice that this good and decent man never had the opportunity to hold the highest office in the land. What a wonderful President he would have been.

Edmund Muskie deserves the thanks of all Americans for his decades of public service. All of us who cherish our wilderness owe him a debt of gratitude for his steadfast defense of our environment as a distinguished Senator for 21 years. He was the father of the Clean Air Act and the Clean Water Act. The air we breathe is cleaner and the water we drink much purer because of Senator Muskie’s dedication to environmental protection.

Those of us who care about fiscal responsibility—about making sure that America’s hardworking taxpayers get a dollar’s worth of services for a dollar’s worth of taxes—owe him thanks for his stewardship of the Senate Budget Committee. As Chair of the Committee, Senator Muskie fought to curb excessive Federal spending, while also ensuring that the Government did not turn its back on those seeking a helping hand.

We owe him thanks for his service as Secretary of State under President Carter. He undertook that important responsibility at a difficult and sensitive time—while the President was working to free American hostages being held in Iran. And he fulfilled his duties with honor and wisdom.

Those of us who are Democrats also owe him a debt. Virtually single-handedly he revitalized a dormant Democratic party in his beloved state of Maine. He became Maine’s first Democratic Governor in 20 years.

Without him, the Senate might never have been honored by the service of our former Majority Leader, George Mitchell, and the United Nations might never have benefitted from the enormous contributions of Madeline Albright. He mentored them both, providing them with some of their first experiences in government.

Mr. President, America is a better place because of the dedicated public service over many decades of Edmund S. Muskie. I thank him and honor him for his service to our country.

My thoughts and prayers go out to his wife, Jane, his children and the entire Muskie family.

THE PASSING OF WILLIAM JENNINGS DYESS

Mr. HEFLIN. Mr. President, William J. Dyess, a long-time Foreign Service officer and State Department official, died at his home here in Washington. He was buried in his hometown of Troy, AL. An alumnus of the University of Alabama, where he received his B.A. and M.A. degrees and earned a Phi Beta Kappa key, Bill Dyess served for 25 years in the Foreign Service.

The University of Alabama National Alumni Association recently announced that a scholarship endowment had been established in his memory. I request that the text of the announcement be printed in the Record. It tells the story of a remarkable public servant whose achievements in his field will long serve as benchmarks for those who follow him into diplomacy.

There being no objection, the material was ordered to be printed in the Record, as follows:

WILLIAM JENNINGS DYESS MEMORIAL SCHOLARSHIP ENDOWMENT FUND

Adopted and raised by a local barber and his wife, the late Mildred L. Dyess, Parry Billy—as he was affectionately known to his friends—started a ten-year career at The Troy Messenger, at age nine. He began first as a carrier and progressed through the ranks, to sports editor, and finally, city editor. Educated in the public schools of Troy, his senior year in 1947 he edited the Troy High School newspaper, which took five national honors.

Bill’s passion for journalism found him at the University of Missouri, making Phi Eta Sigma, Delta Upsilon, and Sigma Delta Chi honors and graduated with a B.A. in 1950 and an M.A. in 1951. Although poor eyesight precluded his playing football, Bill’s sportsmanship and leadership were recognized as a Rotary International Scholarship, awarded by the Troy Chapter, took him to post-graduate work at Oxford University (St. Catharine’s College). Later, he studied at Syracuse University’s Maxwell School.

After college, Bill began a career that would take him far away from his hometown roots in Troy. He served on a tour with U.S. Army Intelligence in Berlin from 1953-1966. In 1958, Bill left his Ph.D. studies at Syracuse to enter the foreign service of the U.S. Department of State. Serving primarily as a political officer in Belgrade, Copenhagen, and Moscow, and as chief of liaison in Berlin, he soon became a European specialist. In Washington, D.C., he led the Office of Public Diplomacy, a job he served on, and he frequently made brief tour as both the Czech and Soviet desk officer.

No matter what the Bill was based, his career always meant meeting the Soviet challenge confronting the United States and its allies. He grappled with the Soviets mostly over bilateral affairs, maritime matters, and the production of the Nerva non nuclear submarine in Moscow. Foreign Minister Gromyko attacked him by name before a group of U.S. Senators; Moscow denied him a visa and they seriously harassed him inside the Soviet Union, claiming he was an intelligence agent, which was false. Bill acknowledged, “Their real gripe was that I was a Soviet desk officer, I knew how to make life in Washington difficult for the KGB, and I did.” In November 1974, Bill escorted Lithuanian-American Senator Simus Kudirkas and his family to freedom.

Bill left Soviet affairs in late 1975, partly in order to lift my nose from the US-USSR 'latter day and to sharpen my view on the issues worldwide,” he said. He then served as Deputy Assistant Secretary for Public Affairs and in 1980, he was President Carter’s Assistant Secretary of State and later as interim spokesman. Drawing on his Soviet expertise, Dyess delivered dozens of talks before diverse audiences, using these occasions not merely to present Government views on such issues as nuclear deterrence, the grain embargo, and SALT (Strategic Arms Limitations Treaty) but also “to listen closely to what American citizens where saying. The State Department has learned that any foreign policy that lacks broad public support cannot be long continued.”

Over the years, Bill’s duties frequently brought him into contact with the U.S. Congress, where his work on inter-agency committees made him well-known in the executive levels of government. He received the State Department’s Superior Honor Award and Meritorious Honor Award. White House extended diplomatic relations and Democratic administrations and in 1981, President Reagan appointed Bill as Ambassador to The Netherlands.

As ambassador, Bill was responsible for every phase of U.S.-Dutch relations, including military installations. He was credited with persuading Dutch officials to allow librarians to review positions on fulfilling NATO goals after the peace movement’s protests stirred public anti-American sentiment. Bill enjoyed strong ties with the Dutch business community, then the largest direct investor in the U.S. from abroad. Before his retirement in 1983, The Netherlands awarded him the Grand Cross in the Order of Orange-Nassau, the highest decoration given to foreigners.

For Bill, retirement from government service meant another exciting beginning as he started his own consulting business, WmDyess Associates, Inc., in Washington, DC. Clients—he did not work for foreign governments—were in publishing, shipping, and oil exploration. In 1996, he also invested in a local cemetery.

Aside from running his own business, Bill was able to devote much of his time to the alumni activities of both Oxford University and the University of Alabama. He was particularly active with his local Alabama alumni chapter, the National Capital Chapter, where he promoted fundraising and other events. Serving as honorary scholarship chairman, he organized a scholarship dinner for former University of Alabama President E. Don Tallman at a New York restaurant.

On another occasion, Bill brought in Pulitzer Prize winner, Dr. Edward O. Wilson. Bill was a generous contributor of his time and money to the Alumni Associations’ efforts. He was a strong advocate for the Alumni Associations’ efforts.

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BERTE LOOKS TO THE FUTURE AT BSC

(By Michaelie Chapman)

When you ask Neal R. Berte about his future, expect him to talk about his goals for Birmingham-Southern College.

Berte celebrated his 20th anniversary as president there Thursday.

He has had plenty of opportunities to go elsewhere but said, “I feel sort of content.”

That’s not to say Berte has no goals for the small liberal arts school he helped build into one of the best in the nation. But he really can’t envision a job offer good enough to persuade him to leave the Hilltop and the city he has come to call home.

At 55, Berte is a slim and energetic man who puts those in his company at ease with his friendly but earnest manner.

While many college presidents confine their interests to campus, Berte’s voice is heard far beyond the gates of Birmingham-Southern.

He’s the personification of the word “leader,” said Don Newton, president of the Chamber of Commerce. “I have never seen him tackle anything that he didn’t complete the task.”

Herbert A. Sklenar, chairman of the Birmingham-Southern Board of Trustees, believes Berte’s involvement in the community is part of the reason why the school is doing so well.

“He took an institution that had a great tradition and history but was faltering somehow knowing someone’s name does not turn it around and, by all kinds of measurements, turn it into a success,” Sklenar said.

Twenty years ago, Berte said, “There were some large problems . . . that probably were reflective of many colleges and universities across the country . . . We had a declining enrollment. We were operating on a deficit budget. I think it’s fair to say the general public did not have a real positive attitude about the value of liberal arts education.”

But the trustees were committed, the faculty was outstanding and the students were capable, he said.

Berte pulled all those forces together and began improving the school, which had about 600 students in 1976. Today Birmingham-Southern has an enrollment of 1,500.

Other things are changing at Birmingham-Southern as well—much of it as part of the Toward the 21st Century Campaign, a $64 million fundraising effort that began last May. Pledges for $46 million have been received so far.

Berte is proud that the endowment has grown to $62.2 million from $34 million.

In the past few years, Birmingham-Southern has gotten considerable national recognition from magazines, publications and foundations that rate colleges and universities. “That is good for the school . . . but I’d like to believe it also is good for Birmingham and for Alabama,” Berte said.
REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT FOR CALENDAR YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 135

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

WILLIAM J. CLINTON.

MESSENGES FROM THE HOUSE
At 10:14 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:
H. J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:
H. Con. Res. 146. Concurrent resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds.

The following bill was read the first time, ordered to be printed, referred to the Committee on the Judiciary.
H.R. 849. An act to amend the Age Discrimination in Employment Act of 1967 to restate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers; and for other purposes.

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-2189. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, conventions, treaties, and background statements; to the Committee on Foreign Relations.
EC-2190. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Secretary of State Determination relative to Israel; to the Committee on Foreign Relations.
EC-2191. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the report on agency compliance with respect to unfunded mandates reform; to the Committee on Governmental Affairs.
EC-2192. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report relative to cost of travel and privately owned vehicles of federal employees; to the Committee on Governmental Affairs.
EC-2193. A communication from the Chairman of the Board of Governors of the Federal Reserve, transmitting, pursuant to law, a report relative to the implementation of its administrative responsibilities during calendar year 1995; to the Committee on Governmental Affairs.
EC-2194. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on Governmental Affairs.
EC-2195. A communication from the Vice President and General Counsel of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on Governmental Affairs.
EC-2196. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.
EC-2197. A communication from the Board Members of the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act to conform the statute of limitations with respect to the creditability of compensation under that Act to the statute of limitations with respect to the payment under the Railroad Retirement Act and for other purposes; to the Committee on Labor and Human Resources.
EC-2198. A communication from the Secretary of Transportation, Commonwealth of Virginia, transmitting, pursuant to law, the final report on the I-66 HOV-2 Demonstration Project; 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-523. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 1004
Whereas, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

[From the Birmingham Post-Herald, Feb. 7, 1996]
20 YEARS OF LEADERSHIP
Twenty years ago, the future looked dim for many small, private liberal arts colleges. Declining enrollments and troubled financial conditions forced many such schools out of existence. Others survived by abandoning much of their distinctiveness through mergers into larger universities or by becoming taxpayer-funded institutions. People were even questioning whether a liberal arts education had any value.

Among the colleges in trouble was Birmingham-Southern College. Enrollment was down significantly, the college had a budgetary balance and university president had changed hands several times in a very short period.

Then, on Feb. 1, 1976, Neal Berte became college president. Under his leadership, the Methodist institution enhanced what were still strong academic programs, rebuilt its finances and reversed the erosion of a tradition of community involvement.

If Berte had done nothing more in the past 20 years than restore Birmingham-Southern to one of the best liberal arts colleges in this part of the country, he would deserve high praise. But as anybody who follows public life in this community must know, he has done much more.

There is hardly a facet of civic life that has not been affected—for the better—by Berte. He has been involved in a host of local organizations. But even more important has been his ability to bring other leaders and potential leaders together in ways that improve Birmingham for all of us. He has been a much-needed catalyst for change.

Anybody seeking an example of what being a leader means need look no farther than the Birmingham-Southern hilltop campus and the office of Neal Berte.

REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT FOR CALENDAR YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 136

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. The Agency resources devoted to the preparation of this report could be put to other, better uses.

WILLIAM J. CLINTON.
"Whereas, under the United States Constitution, the states are to determine public policy; and

"Whereas, it is the duty of the judiciary to interpret the law, not to create law; and

"Whereas, our present federal government has strayed from the intent of our founding fathers and the United States Constitution throughout the federal mandates and tax increases to comply with federal mandates; and

"Whereas, these mandates by way of statute, rule or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

"Whereas, federal district courts, with the acquiescence of the United States Supreme Court, have improperly ordered states to increase taxes to comply with federal mandates; and

"Whereas, these court actions violate the United States Constitution and the legislative process; and

"Whereas, the time has come for the people of this great nation to further define the role of the courts in their review of federal and state laws; and

"Whereas, several states have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America; and

"Whereas, the amendment was previously introduced and introduced; and

"Whereas, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes; and

"Whereas, the State of Arizona desires that the United States Congress acknowledge and act upon this expression of the intent of the people of Arizona without the necessity of those states calling a constitutional convention as authorized in Article V of the Constitution of the United States: Therefore, be it

Resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. That the Congress of the United States prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows: 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.' Be it further

Resolved, That a duly attested copy of this Resolution be immediately transmitted to the president of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each Member of the Arizona Congressional Delegation.'

POM-524. A concurrent resolution adopted by the Legislature of the State of Arizona, to the Committee on the Judiciary.

"Resolved, That this petition constitutes a continuing application in accordance with Article V of the Constitution of the United States; and be it further

Resolved, That this petition constitutes a continuing application in accordance with Article V of the Constitution of the United States; and be it further

Resolved, That such legislative body requests the legislatures of the several states comprising the United States to propose an amendment to the Constitution of the United States Constitution's.}

"Whereas, the legislature of the State of Arizona, by the Legislature of the State of Arizona, to the Committee on the Judiciary.

"Whereas, the attorney general's opinion is that the tax increase 'only affected the rich'; and

"Whereas, retroactive taxation places an unfair and intolerable burden on the American taxpayer; and

"Whereas, retroactive taxation is wrong, it is bad policy, and it is a reprehensible action on the part of the government; now, therefore, be it

Resolved by the House of Representatives of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the Senate concurrence, in the name of the State of Hawaii, the House of Representatives of the United States Congress to propose an amendment to the Constitution read- ing substantially as follows: `Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.' Be it further

Passed by the House of Representatives of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the Senate concurrence, in the name of the State of Hawaii, the House of Representatives of the United States Congress to propose an amendment to the Constitution reading substantially as follows: `Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.'
S3014 CONGRESSIONAL RECORD — SENATE
March 27, 1996

POM–257. A resolution adopted by the Senate of the Legislature of the State of Kansas; to the Committee on Labor and Human Resources.

"Whereas, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products, and medical devices; and

"Whereas, minimizing the delay between discovery and eventual approval of a new drug, biological product or medical device derived from research conducted by innovative pharmaceutical and biotechnology companies could improve the lives of millions of Americans; and

"Whereas, current limitations on the dissemination of information about pharmaceutical products reduce the availability of information to physicians, other health care professionals and patients, and limits the right of free speech guaranteed by the First Amendment to the United States Constitution; and

"Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive; therefore, be it

"Resolved by the Senate of the State of Kansas:

"That the Legislature respectfully urges: the Congress of the United States to address this important issue by enacting comprehensive legislation that would expedite and approval of innovative new drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and be it further

"Resolved, That the Clerk of the House of Delegates be hereby directed to transmit appropriate copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the West Virginia Delegation of the Congress."

POM–258. A concurrent resolution adopted by the Legislature of the State of West Virginia relative to the development and approval of new; to the Committee on Labor and Human Resources.

"WHEREAS, improving patient access to quality health care is the number one national priority. And,

"WHEREAS, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

"WHEREAS, two thirds of all new drugs approved by the United States Food and Drug Administration were approved first in other countries with approval of a new drug currently taking 14.5 years; and

"WHEREAS, the United States has long led the world in discovering new drugs, but too many new medicines first are introduced in other countries, with forty drugs currently approved in one or more foreign countries still in development in the United States or awaiting FDA approval; and

"WHEREAS, the industry is waiting for the industry to discover and efficiently develop safe and effective new medicines and for the FDA to facilitate the development and approval of safe medicines sooner; and

"WHEREAS, a broad bipartisan consensus that the FDA must be re-engineered to meet the demands of the twenty-first century; and

"WHEREAS, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive; therefore, be it

"Resolved, by the Senate of the State of West Virginia: That this Legislature respectfully urges: the Congress of the United States to address this important issue by enacting comprehensive legislation that would expedite and approval of innovative new drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and, be it further

"Resolved, That the Clerk of the House of Representatives be hereby directed to transmit appropriate copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the West Virginia Delegation of the Congress."

POM–259. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on Foreign Relations.

"H.R. 5231

"Whereas, minimizing the delay between discovery and eventual approval of a new drug, biological product or medical device derived from research conducted by innovative pharmaceutical and biotechnology companies could improve the lives of millions of Americans; and

"Whereas, current limitations on the dissemination of information about pharmaceutical products reduce the availability of information to physicians, other health care professionals and patients, and limits the right of free speech guaranteed by the First Amendment to the United States Constitution; and

"Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive; therefore, be it

"Resolved by the Senate of the State of Kansas:

"That the Legislature respectfully urges: the Congress of the United States to address this important issue by enacting comprehensive legislation that would expedite and approval of innovative new drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and be it further

"Resolved, That the Clerk of the House of Delegates be hereby directed to transmit appropriate copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the West Virginia Delegation of the Congress."

POM–260. A resolution adopted by the Legislature of the State of West Virginia relative to the development and approval of new; to the Committee on Energy and Natural Resources.

"RESOLUTION NO. 1552

"WHEREAS, in 1968 and 1973, the Congress of the United States found it necessary to enact the National Flood Insurance Act of 1968; and

"WHEREAS, in considering the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973; and

"WHEREAS, the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, and the related legislation enacted by the Congress of the United States found the following to be true:

"(1) From time to time, flood disasters have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources.

"(2) Despite the installation of preventive and protective works for the reduction of other public programs designed to reduce losses caused by flood damage, these methods have not been sufficient to adequately protect against growing exposure to future flood losses.

"(3) As a matter of national policy, a reasonable method of sharing the risk of flood losses through a program of flood insurance which can complement and encourage preventive and protective measures.

"(4) If such a program is initiated and gradually carried out, it can be expanded as knowledge and experience are gained, eventually making flood insurance coverage a reasonable term and conditions to persons who have need for such protection.

"(5) Many factors have made it economically difficult for the public insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions.

"WHEREAS, the Congress of the United States found the following to include the large-scale participation of the Federal Government carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

"(7) Federal institutionalism insure or otherwise provide financial protection to the banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mudslides.

"(8) The nation cannot afford the tragic loss of life caused annually by floods, nor the increasing property damage caused by flood victims, most of whom are still inadequately compensated despite receiving disaster relief benefits.

"(9) It is in the public interest for persons already living in flood-prone areas to have an opportunity to purchase flood insurance and to have access to adequate flood insurance coverage so that they will be indemnified for their losses in the event of future flood disasters; and

"WHEREAS, Hurricane Marilyn's high sustained and gusting winds caused the Territory of the United States Virgin Islands to suffer catastrophic damage in the billions of dollars and also caused the territory to be declared a federal disaster area by President Clinton;

"WHEREAS, Hurricane Opal's high sustained and gusting winds have devastated certain areas of the United States Gulf coast and the Mexican coast; and

"WHEREAS, Hurricane Luis which threatened the United States Virgin Islands with Category 4 force winds and resulted in some physical damage to the territory; and

"WHEREAS, Hurricane Andrew's high sustained and gusting winds devastated the United States Virgin Islands, particularly St. Croix, and South Carolina in 1989, resulting in damage in the billions of dollars; and

"WHEREAS, Hurricane Andrew's high sustained and gusting winds devastated certain areas of southern Florida in 1992, resulting in damage in the billions of dollars; and

"WHEREAS, in light of a long history of hurricanes and their accompanying windstorms associated with Columbus's landfall and destruction of the United States, its possessions in the Caribbean sea and in the Pacific; and

"WHEREAS, the migration of people to coastal areas of the United States and its possessions including the U.S. Virgin Islands have increased; and
"Whereas, recent scientific warnings about
global warming and its effect on global
weather patterns are predicting more fre-
cquent and intense hurricane activity; and
the periodic absence of the ‘‘El Niño’’ phenomenon increases the likelihood of
the formation of hurricanes; and
"Whereas, nature of the Virgin Islands
finds that the history of past hurricane
and windstorm activity, and the prospect of
increased hurricane and windstorm activity
affects the States and its territorys
(incuding the U.S. Virgin Islands) present the same, or similar, considera-
tions which led to enactment of the National
Flood Insurance Act, and the Flood
Disaster Protection Act of 1973; and
"Whereas, the following is from the Na-
tional Act:
"(1) Windstorms have created personal
hardships and economic distress which have
required unforeseen disaster relief measures
and have placed an increasing burden on the
Nation's resources.
"(2) Installation of preventive and protec-
tive works . . . have not been sufficient to
provide adequate protection against growing exposure to future [windstorm] losses.
"(3) As a matter of national policy, a rea-
sonable and feasible program of [wind-
storm] losses is through a program of [wind-
storm] insurance.
"(4) If such a program is initiated . . . it can [make windstorm insurance] available on reasonable terms and condi-
tions.
"(5) Many factors have made it unecono-
ical for the private insurance industry
alone to make [windstorm] insurance avail-
able to those in need of such protection on reasonable terms and conditions.
"(6) A program of [windstorm] insurance
with large-scale participation of the federal government carried out to the maximum ex-
tent permitted by private insurance indus-
ty is feasible and can be initiated.
"(7) Federal instrumentalities insure or
otherwise provide financial protection to
banking and credit institutions whose assets include a substantial number of mortgage
loans and other indebtedness secured by
property exposed to loss and damage from
[windstorms].
"(8) The nation cannot afford . . . the in-
creasing losses of property suffered by [wind-
storm] losses of whom are still inadequately compensated despite the provision of
costly disaster relief benefits.
"(9) It is in the public interest for persons already protected by [windstorm] insurance to have both an opportunity to purchase [wind-
storm] insurance and access to more ade-
quately limits of coverage, so that they will be indemnified for their losses in the event of future [windstorm] disasters.
"Now, therefo-
are, be it
"Resolved by the Congress of the Virgin Is-
lands:
"SECTION 1. The Legislature of the Virgin Islands, on behalf of the people of the Virgin Islands, and urgently and respectfully requests the United States Congress to establish a
National Windstorm Insurance Program, to be patterned after the National Flood Insurance Program of the United States.
"SECTION 2. Copies of this resolution shall be forwarded to the President of the United States, each member of the United States Congress in the States and its territories and its delegate to Congress. Copies of this resolution shall also be forwarded to the Governor and the Legis-
lature of every state and possession of the United States, and in a windstorm-prone area. These various jurisdictions shall be asked to adopt this resolution and to join with the United States Virgin Islands in petitioning the Congress to establish a National Windstorm Insurance Program because they would also benefit from such a program."

POM-53L A resolution adopted by the
House of the Legislature of the State of Georgia; to the Committee on Energy and Natural Resou-
res.

POM-53L A resolution adopted by the
House of the Legislature of the State of Georgia; to the Committee on Energy and Natural Resou-
res.

POM-53L A resolution adopted by the
House of the Legislature of the State of Georgia; to the Committee on Energy and Natural Resou-
res.

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House of the Legislature of the State of Georgia; to the Committee on Energy and Natural Resou-
res.

POM-53L A resolution adopted by the
House of the Legislature of the State of Georgia; to the Committee on Energy and Natural Resou-
res.

POM-53L A resolution adopted by the
House of the Legislature of the State of Georgia; to the Committee on Energy and Natural Resou-
res.
POM—533. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

WHEREAS, the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (The Delta) is nationally recognized as both an important feature of the state's environmental and an important component of the state's water supply system; and

WHEREAS, the Delta is the single most important source of water for the people, farms, and industries of this state, providing the water supply for more than two-thirds of all Californians; and

WHEREAS, the Delta is home to many aquatic species, including several endangered species; and

WHEREAS, it is imperative to maintain the water quality of the Delta; and

WHEREAS, it is the policy and the law of the state to protect and use wisely natural resources such as the Delta; and

WHEREAS, the CAL-FED program recognized the need to expand participation to include all impacted parties and the interested public; and

WHEREAS, it has established a number of efforts including the Bay Delta Advisory Commission and monthly public workshops to do so; and

WHEREAS, the success of the CAL-FED program is vital to the environmental and economic well-being of the state; now, therefore, be it

RESOLVED, That the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President of the United States and the Governor to cooperate to carry out the CAL-FED program the necessary support to ensure the program's success in achieving a comprehensive solution to the problems of the Delta; and be it further

RESOLVED, That the Legislature of the State of California urges the President of the United States and the Governor to cooperate to carry out the CAL-FED program the necessary support to ensure the program's success in achieving a comprehensive solution to the problems of the Delta; and be it further

RESOLVED, That the Legislature of the State of California requests the manager of the CAL-FED program to submit to the Legislature a semiannual report on January 1 and July 1 of each year, regarding the progress CAL-FED has made towards achieving comprehensive and long-term solutions to the problems of the Delta; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor.

POM—534. A resolution adopted by the Senate of the State of California; to the Committee on Energy and Natural Resources.

WHEREAS, the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (The Delta) is nationally recognized as both an important feature of the state's environmental and an important component of the state's water supply system; and

WHEREAS, the Delta is the single most important source of water for the people, farms, and industries of this state, providing the water supply for more than two-thirds of all Californians; and

WHEREAS, the Delta is home to many aquatic species, including several endangered species; and

WHEREAS, it is imperative to maintain the water quality of the Delta; and

WHEREAS, it is the policy and the law of the state to protect and use wisely natural resources such as the Delta; and

WHEREAS, the CAL-FED program recognized the need to expand participation to include all impacted parties and the interested public; and

WHEREAS, it has established a number of efforts including the Bay Delta Advisory Commission and monthly public workshops to do so; and

WHEREAS, the success of the CAL-FED program is vital to the environmental and economic well-being of the state; now, therefore, be it

RESOLVED, That the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President of the United States and the Governor to cooperate to carry out the CAL-FED program the necessary support to ensure the program's success in achieving a comprehensive solution to the problems of the Delta; and be it further

RESOLVED, That the Legislature of the State of California urges the President of the United States and the Governor to cooperate to carry out the CAL-FED program the necessary support to ensure the program's success in achieving a comprehensive solution to the problems of the Delta; and be it further

RESOLVED, That the Legislature of the State of California requests the manager of the CAL-FED program to submit to the Legislature a semiannual report on January 1 and July 1 of each year, regarding the progress CAL-FED has made towards achieving comprehensive and long-term solutions to the problems of the Delta; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor.

POM—534. A resolution adopted by the Senate of the State of California; to the Committee on Energy and Natural Resources.

WHEREAS, the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (The Delta) is nationally recognized as both an important feature of the state's environmental and an important component of the state's water supply system; and

WHEREAS, the Delta is the single most important source of water for the people, farms, and industries of this state, providing the water supply for more than two-thirds of all Californians; and

WHEREAS, the Delta is home to many aquatic species, including several endangered species; and

WHEREAS, it is imperative to maintain the water quality of the Delta; and

WHEREAS, it is the policy and the law of the state to protect and use wisely natural resources such as the Delta; and

WHEREAS, the CAL-FED program recognized the need to expand participation to include all impacted parties and the interested public; and

WHEREAS, it has established a number of efforts including the Bay Delta Advisory Commission and monthly public workshops to do so; and

WHEREAS, the success of the CAL-FED program is vital to the environmental and economic well-being of the state; now, therefore, be it

RESOLVED, That the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President of the United States and the Governor to cooperate to carry out the CAL-FED program the necessary support to ensure the program's success in achieving a comprehensive solution to the problems of the Delta; and be it further

RESOLVED, That the Legislature of the State of California urges the President of the United States and the Governor to cooperate to carry out the CAL-FED program the necessary support to ensure the program's success in achieving a comprehensive solution to the problems of the Delta; and be it further

RESOLVED, That the Legislature of the State of California requests the manager of the CAL-FED program to submit to the Legislature a semiannual report on January 1 and July 1 of each year, regarding the progress CAL-FED has made towards achieving comprehensive and long-term solutions to the problems of the Delta; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor.
WHEREAS, although a Pearl Harbor Memorial was erected above the sunken battleship U.S.S. Arizona in Pearl Harbor, it is fitting and appropriate that an additional memorial be constructed in Washington, D.C., memorializing the great sacrifice made by those Americans who perished at the hands of the Japanese in that surprise attack; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take every action necessary to ensure the construction, dedication, and maintenance of a Pearl Harbor Memorial in the District of Columbia, at a place of honor in Washington, D.C., and be it further resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice-President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment:
S. 699. A bill to amend the Ethics in Government Act of 1978 to extend the authorization of appropriations for the Office of Government Ethics for seven years, and for other purposes (Rept. No. 104-244).

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:
S. 1224. A bill to amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, and for other purposes (Rept. No. 104-245).

By Mr. SPECTER, from the Committee on Foreign Relations, without amendment and with a preamble:
S. Con. Res. 42. A concurrent resolution concerning the emancipation of the Iranian Bahai community.

By Mr. SPECTER, from the Select Committee on Intelligence:

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:
Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation. (New Position.)
Stapleton Roy, of Pennsylvania, to be Under Secretary of Commerce for International Trade.
Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years. (Reappointment.)
Laurence H. Meyer, of Missouri, to be a Member of the Board of Governors of the Federal Reserve System for a term of 4 years.
Alice M. Rivlin, of Pennsylvania, to be a Vice Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

By Mr. HELMS, from the Committee on Foreign Relations:
Lawrence Neal Benedict, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.
Alfred C. DeCotiis, of New Jersey, to be a Representative of the United States of America to the fiftieth Session of the General Assembly of the United Nations.
Ernest O. Kohl, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2001. (Reappointment.)
Aubrey Hooks, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.
Henry McKoy, of North Carolina, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 2002, vice William H.G. Fitzgerald, term expired.
The following-named Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Congo:
Robert Krueger, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

By Mr. SPECTER, from the Select Committee on Intelligence:
Charles Eric North, of Maryland.
Charles G. Knight, of Virginia.
Carol Bruce Kiranbay, of Virginia.
Laura Anne Kearns, of Georgia.
Lawrence Hardy II, of Washington.

By Mr. HELMS, from the Committee on Foreign Relations:
The following-named persons of the Foreign Service of the Department of Agriculture for promotion into the Senior Foreign Service to the classes indicated:
Career Members of the Foreign Service of the United States of America, Class of Counselor:
Lloyd J. Fleck, of Tennessee.
J. James Grued, of Maryland.
Thomas A. Hamby, of Tennessee.
Peter F. Kutz, of Maryland.
Kenneth J. Roberts, of Minnesota.
Robert J. Wicks, of Virginia.

The following-named persons of the Foreign Service of the Department of Agriculture for promotion into the Senior Foreign Service to the classes indicated:
Career Members of the Foreign Service of the United States of America, Class of Counselor:
Suzanne K. Hale, of Virginia.
Frank J. Pison, of New Jersey.

The following-named Career Members of the Foreign Service of the Department of Agriculture for promotion into the Senior Foreign Service to the classes indicated:
Career Members of the Foreign Service of the United States of America, Class of Counselor:

DEPARTMENT OF STATE

Alfred Thomas Clark, of California.

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Mahlon Atkinson Bane, of Virginia.
Donald Allen Drga, of Texas.
Richard J. Gold, of Virginia.

DEPARTMENT OF STATE

Barbara S. Aycock, of the District of Columbia.
Dana M. Weant, of Washington.

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Christine Adamczyk, of Michigan.
Syed A. Ali, of Florida.
Todd Hanson Amani, of Maryland.
R. Douglass Arbuckle, of Florida.
David Chapmann Atteberry, of Texas.
E. J. Eber, of Nevada.
Barbara L. Belding, of California.
Scott H. Bellows, of South Carolina.
Aleksandra Booth Brajinski, of the District of Columbia.
Robert F. Cunnane, of Washington.
Thomas R. Delaney, of Pennsylvania.
Thomas A. Egan, of Washington.
Branden W. Enroth, of Delaware.
Theodore Victor Gehr, of Oregon.
Lawrence Hardy II, of Washington.
Laura Anne Kearns, of Georgia.
Carol Bruce Kiranbay, of Virginia.
Charles G. Knight, of Virginia.

DEPARTMENT OF AGRICULTURE

Margaret M. Bauer, of Virginia.
Michael L. Conlon, of Michigan.
Catherine M. Sloop, of Washington.
Margaret E. Thursland, of Virginia.
Dennis B. Voboril, of Kansas.
David J. Williams, of West Virginia.

DEPARTMENT OF STATE

Kevin Blackstone, of New York.

DEPARTMENT OF STATE

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:
DEPARTMENT OF AGRICULTURE

J oani M. Dong, of California.

Hoa V. Huynh, of Oregon.

Emiko M. Purdy, of Pennsylvania.

DEPARTMENT OF STATE

Julie Deidra Adams, of Maryland.

Antonette Roswender, of Texas.

Scott Douglas Boswell, of New Jersey.

William W. Christopher, of California.

J ohn Charles Coe, of Florida.

Marko Dutch, of Georgia.

Mary Doetsch, of California.

Pamela Dunham, of Oregon.

Lara Suzanne Friedman, of Arizona.

Paul F. Fry, of Wyoming.

Peter G. Hancow, of Illinois.

J ohn David Haynes, of Colorado.

Michael H. Hill, of California.

Camille Diane Hill, of California.

Andrew P. Hogenboom, of New York.

Sherry Ann Holliday, of Kansas.

Randall Warren Houston, of California.

Bruce K. Hudspeth, of Virginia.

Lisa Anne Johnson, of Virginia.

Michael Robert Keller, of Florida.

Patricia Kathleen Keller, of Virginia.

George P. Kent, of Virginia.

Philip G. Laidlaw, of Florida.

Sherrie L. Marafinio, of Pennsylvania.

Raymond L. Markmann, of North Carolina.

Kathleen A. Morenski, of Virginia.

Andrew Leonard Morrison, of Arkansas.

J onathan Edward Mudge, of California.

Tullahsba Mungin, of Virginia.

David Reimer, of Virginia.

Madeline Quinn Seidenstricker, of Florida.

Ellen Barbara Thorburn, of Michigan.

Hal L. Vaux, of North Carolina.


William Randall Wisell, of Vermont.

Diane Elizabeth Wood, of Washington.

UNITED STATES INFORMATION AGENCY

Angela Delphinita Williams, of California.

The following-named Members of the Foreign Service of the Departments of Agriculture, Commerce and State to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America, as indicated:

Daniel K. Acton, of Virginia.

Mea Arnold, of Virginia.

Vaughn Frederick Bishop, of Virginia.

J ohn P. Booth, of Virginia.

Lea Ann Booher, of Virginia.

J . Alex Boston, of Maryland.

Brett J. Brenneke, of Illinois.

J ohn G. Brown, of Virginia.

Paul David Burhead, of North Carolina.

Richard K. Choate, of Virginia.

Bart D. Cobbs, of Arkansas.

Michelle Gondako Connell, of Ohio.

Carolyn Creatore, of Delaware.

J ulie Sad tunnel Davis, of Georgia.

Paul Grady Degler, of Texas.

Cecilia Darin Dyno, of Virginia.

Craig E. Farmer, of Virginia.

Alexander G. Felu, of Virginia.

J ohn H. Fort, of Virginia.

Ellen Kathryn G etten, of New York.

Gary J. Glueckert, of Virginia.

J acques LeRoy Gude, of Virginia.

Ceresa L. Haney, of Virginia.

Todd C. Hagen, of Michigan.

William M. Howe, of Oregon.

Bryan David Hunt, of Virginia.

Kim DeCoux Invergo, of Virginia.

Henry Vincent J. Jackson, of Virginia.

Amer Kayanai, of California.

Lucille L. Kirk, of the District of Columbia.

David Allan Katz, of California.

J oseph R. Kuzel, of Virginia.

Mitchell G. Larsen, of Illinois.

Raymond R. Lau, of Virginia.

Mary E. Lenze-Acton, of Virginia.

Louis F. Lich, of Maryland.

Sharon E. Little, of Virginia.

James L. Llo, of Connecticut.

Gwen Lyle, of Texas.

Valerie Lynn, of Colorado.

Jackson T. Mabry, of Virginia.

J oseph A. Malpei, of Virginia.

Ileana M. Martinez, of Pennsylvania.

Luis E. Matos, of Virginia.

Manuel P. Micaler, Jr., of California.

Katherine Elizabeth Monahan, of California.

Carrie L. Newton, of Virginia.

Geoffrey Peter O'Brien, of Florida.

J ohn Raymond O'Donnell, of Virginia.

Pamela L. Penfold, of Virginia.

Daniel W. Peter, of California.

Julia M. Rauner-Guerrero, of Virginia.

J acqueline Reid, of Virginia.

Harvey Peter Reiner, of California.

Miguel Angel Rodriguez, of Maryland.

J ulio Ryan Royal, of Virginia.

Stephen D. Sack, of Virginia.

Karen Marie Schaefer, of Virginia.

James Steven Schneider, of Virginia.

Lori A. Shoemaker, of Tennessee.

Zora Valerie Shuck, of Virginia.

Michele Marie Siders, of the District of Columbia.

Robert J . Swaney, of Virginia.

Marilin J . Taylor, of Texas.

W. Garth Thibodaux, of Virginia.

Shawn Kristen Thorne, of Texas.

Bryn W. Tippman, of California.

Michael Carl Trulson, of California.

J ane S. Upshaw, of Virginia.

Graham Webster, of Florida.

Keresa M. Webster, of Virginia.

Bruce C. Wilson, of California.

Andrea L. Winans, of Virginia.

Kevin L. Winstead, of Virginia.

David Jonathan Wolff, of Florida.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominations' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on Armed Services:

"*Joseph J. DiNunzio, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2000."

"**Franklin D. Kramer, of the District of Columbia, to be an Assistant Secretary of Defense."

"*Kenneth H. Bacon, of the District of Columbia, to be an Assistant Secretary of Defense."

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominations' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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 lie on the Secretary’s desk for the information of any Senator whose names have already appeared in the CONGRESSIONAL RECORD of November 7, 1995, February 20 and 26, March 5, 6, 11, 14, and 18, 1996, 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 November 7, 1995, February 20 and 26, March 5, 6, 11, 14, and 18, 1996, at the end of the Senate proceedings.

*Col. William Welser III, USAF to be brigadier general. (Reference No. 662.)

**In the Navy there is 1 appointment to the grade of lieutenant (J ohn M. Cooney). (Reference No. 715.)

**In the Air Force there is 1 promotion to the grade of brigadier general (Timothy J . McMahon). (Reference No. 833-2.)

*Maj. General Kenneth E. Eickmann, USAF to be lieutenant general. (Reference No. 886.)

**In the Army Reserve there is 1 promotion to the grade of colonel (Gary N. Johnston). (Reference No. 913.)

**In the Army Reserve there are 32 promotions to the grade of colonel and below (list begins with Pat W. Simpson) (Reference No. 914.)

**In the Army Reserve there are 28 promotions to the grade of colonel and below (list begins with Anthony C. Crescenzi). (Reference No. 916.)

**In the Navy there is 1 promotion to the grade of commander (Rex A. Auker). (Reference No. 917.)

**In the Army Reserve and Naval Reserve there are 21 appointments to the grade of commander and below (list begins with Richard D. Boyer). (Reference No. 928.)

**In the Air Force Reserve there are 16 promotions to the grade of lieutenant colonel (list begins with Harold E. Burcham). (Reference No. 923.)

**In the Army Reserve there are 1,367 promotions to the grade of lieutenant colonel (list begins with Patrick V. Adamcik). (Reference No. 924.)


**Lt. Gen. J ohn G. Coburn, USA for reappointment to the grade of lieutenant general. (Reference No. 926.)

**In the Air Force Reserve there are 9 promotions to the grade of lieutenant colonel and below (list begins with Douglas W. Anderson). (Reference No. 929.)

**In the Navy there are 220 appointments to the grade of captain and below (list begins with Mark A. Admiral). (Reference No. 930.)

**In the Air Force Reserve there are 41 promotions to the grade of lieutenant colonel (list begins with Robert J . Abell). (Reference No. 931.)

**In the Navy there are 607 appointments to the grade of captain and below (list begins with Michael P. Cavil). (Reference No. 940.)

**In the Navy Reserve there are 28 promotions to the grade of lieutenant colonel (list begins with William M. McMahon). (Reference No. 803-2.)

**In the Air Force Reserve there are 1 promotion to the grade of brigadier general (Timothy J . McMahon). (Reference No. 833-2.)

**In the Air Force Reserve there are 16 promotions to the grade of lieutenant colonel (list begins with Anthony C. Crescenzi). (Reference No. 916.)

**In the Navy there is 1 promotion to the grade of captain and below (list begins with Michael P. Cavil). (Reference No. 940.)

**In the Army Reserve there are 28 promotions to the grade of colonel and below (list begins with Anthony C. Crescenzi). (Reference No. 916.)

**In the Navy there are 220 appointments to the grade of captain and below (list begins with Mark A. Admiral). (Reference No. 930.)

**In the Air Force Reserve there are 41 promotions to the grade of lieutenant colonel (list begins with Robert J . Abell). (Reference No. 931.)

**In the Navy there are 607 appointments to the grade of captain and below (list begins with Michael P. Cavil). (Reference No. 940.)

**In the Navy Reserve there are 283 promotions to the grade of lieutenant colonel (list begins with J ames L. Abram). (Reference No. 950.)

Total: 2,700.

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

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:
I am very happy to introduce the Propane Education and Research Act of 1996. Propane is an extremely important source of clean-burning, domestically-produced energy in the United States providing fuel for cooking, heating, and hot water in over 7.7 million homes, half of all farms, and in millions of recreational applications. Even though propane is the fourth most used fuel in America, no Federal funds are spent on propane research. My legislation keeps that way and simply provides a mechanism that permits, not requires, industry to fund its own research and development (R&D) program for propane.

This act would allow the propane industry, composed of over 165 producers and 5,000 marketers, to vote to establish a checkoff program to fund much needed R&D modeled after the many checkoff programs already established in Federal law. Collected from the industry at an initial rate of $0.04 per gallon of odorized-propane destined for the retail market—propane sales, these funds would support R&D, education, and safety activities. Propane producers and marketers, who would bear the cost of the checkoff programs, have indicated broad support for the legislation.

Propane has traditionally served rural and suburban citizens who are beyond reach of most natural gas lines. The propane industry consists of mostly small businesses that individually lack the resources and expertise to support research, safety, and educational activities that result in enormous benefits to consumers. Some of these benefits include increased efficiency in propane appliances, safer handling and distribution, and an improved environment for Americans from this clean-burning fuel. Small businesses have not historically received direct benefits from federally sponsored energy R&D. This legislation does not fit the traditional heavy-handed approach to energy research and development, but gives the propane small business community the flexibility and the framework to pursue research, safety, and education on their own.

There are similar programs in energy industries, however, such as the Gas Research Institute, the Electric Power Research Institute, the Texas Railroad Commission propane checkoff, and similar State programs in Louisiana, Missouri, and Alabama. These programs have enjoyed considerable success, for example, the Gas Research Institute boasts a 400-percent return for each dollar collected and invested. Their work primarily benefits urban and suburban natural gas consumers, the propane legislation will benefit rural and suburban consumers, as well as urban and suburban propane consumers.

The agricultural industry, for example, which accounts for 7 to 8 percent of all propane consumed in the United States, will see substantial benefits from propane research and development. With even marginal increases in equipment efficiency, the agricultural propane users will reap large returns.

More efficient uses of propane in other businesses, such as home construction, will further increase the value of the return on investment.

The legislation I am introducing will not actually establish the propane checkoff, but calls upon the propane industry to hold a referendum, among themselves, to authorize establishment of the checkoff before it can go into effect. If the industry, propane producers, and retail marketers, vote to establish the checkoff, then the Propane Education and Research Council consisting of industry representatives, will be formed to administer the program. The legislation also looks down the road and allows the industry to terminate the program by a majority vote of both classes, or by two-thirds majority of a single class.

A companion bill, H.R. 1514, was introduced in the House of Representatives and currently enjoys broad bipartisan support. This enthusiasm underscores the widespread regional appeal of this innovative approach to meeting our domestic energy research needs. Moreover, my bill fosters industry’s efforts toward efficient, clean fuels that benefit consumers and alike without Federal dollars and with minimal governmental involvement.

I encourage my colleagues to join me in cosponsoring this important legislation.

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. 1646

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 “Propane Education and Research Act of 1996”.

SEC. 2. FINDINGS.

Congress finds that—

(1) propane gas (also known as liquefied petroleum gas) is an essential energy commodity that provides heat, hot water, cooking fuel, and motor fuel, and has many other uses to millions of Americans;

(2) the use of propane is especially important to rural citizens and farmers, offering an efficient and economical source of gas energy;

(3) propane has been recognized as a clean fuel and can contribute in many ways to reducing pollution in cities and towns of the United States; and

(4) propane is primarily domestically produced, and the use of propane provides energy security and jobs for Americans.

SEC. 3. DEFINITIONS.

In this Act:

(1) the term “Council” means a Propane Education and Research Council established under section 4.

(2) the term “industry” means persons involved in the United States—

(A) the production, transportation, and sale of propane; and

(B) the manufacture and distribution of propane utilization equipment.

(3) the term “industry trade association” means an...
organization exempt from tax, under paragraphs 3 or 6 of section 501(c) of the Internal Revenue Code of 1986, that represents the propane industry.

(4) PRODUCER.—The term "producer" means a person engaged primarily in the sale of odorized propane to ultimate consumers or to retail propane dispensers.

(5) PRODUCER CLASS.—The term "producer class" means a person engaged primarily in the sale of odorized propane to ultimate consumers or to retail propane dispensers.

(6) RETAIL MARKETER.—The term "retail marketer" means a person engaged primarily in the sale of odorized propane to ultimate consumers or to retail propane dispensers.

(7) PUBLIC MEMBER.—The term "public member" means a member of the Council representing other than a representative of producers or retail marketers, including representatives of agricultural cooperatives; and other organizations representing the agriculture industry, including representation of—

(C) a Council that is representative of the industry;

(D) the National Propane Gas Association, the Gas Processors Association, or a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(1) CREATION OF PROGRAM.—The qualified industry organizations may conduct a referendum among producers and retail marketers for the creation of a Propane Education and Research Council.

(2) EXPENSES.—A referendum under paragraph (1) shall be conducted at the expense of the qualified industry organizations.

(3) REIMBURSEMENT.—The Council, if established, shall reimburse the qualified industry organizations for the cost of the referendum according to the rules and bylaws of the Council.

(4) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm designated by the Council.

(5) TERMINATION OR SUSPENSION.—Termi- nation or suspension shall take effect if approved by—

(a) persons representing more than 75 percent of the total volume of odorized propane in the producer class and more than 1/2 of the total volume of propane in the retail marketer class; or

(b) persons representing more than 1/2 of the total volume of odorized propane in the producer class and more than 75 percent of the total volume of propane in the retail marketer class.

The qualified industry organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall select the public members.

(6) VACANCIES.—Vacancies in unfinished terms of Council members shall be filled in the same manner as new appointments.\n
(7) REPRESENTATION.—In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a representative of the industry, including representation of—

(A) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(B) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(C) the National Propane Gas Association, the Gas Processors Association, or a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(D) the National Propane Gas Association, the Gas Processors Association, or a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(1) SELECTION OF MEMBERS.—The qualified industry organizations shall select all retail marketer, public, and producer members of the Council.

(2) ALLOCATE.—The qualified industry organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall select the public members.

(3) APPOINTMENTS.—Initial appointments to the Council shall be made by the Secretary of Commerce.\n
(4) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm designated by the Council.

(5) TERMINATION OR SUSPENSION.—Termi- nation or suspension shall take effect if approved by—

(a) persons representing more than 75 percent of the total volume of odorized propane in the producer class and more than 1/2 of the total volume of propane in the retail marketer class; or

(b) persons representing more than 1/2 of the total volume of odorized propane in the producer class and more than 75 percent of the total volume of propane in the retail marketer class.

(6) VACANCIES.—Vacancies in unfinished terms of Council members shall be filled in the same manner as new appointments.

(7) REPRESENTATION.—In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a representative of the industry, including representation of—

(A) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(B) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(C) the National Propane Gas Association, the Gas Processors Association, or a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

The qualified industry organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall select the public members.

(8) QUALIFIED INDUSTRY ORGANIZATION.—The term "qualified industry organization" means the National Propane Gas Association, the Gas Processors Association, or a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(9) RETAIL MARKETER.—The term "retail marketer" means a person engaged primarily in the sale of odorized propane to ultimate consumers or to retail propane dispensers.

(10) RETAIL PROPANE DISPENSER.—The term "retail propane dispenser" means a person that sells, but is not engaged primarily in the business of selling odorized propane to ultimate consumers.

(11) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 4. REFERENDA.

(a) CREATION OF PROGRAM.—The qualified industry organizations may conduct a referendum among producers and retail marketers for the creation of a Propane Education and Research Council.

(b) TERMINATION OR SUSPENSION.—Termi- nation or suspension shall take effect if approved by—

(a) persons representing more than 75 percent of the total volume of odorized propane in the producer class and more than 1/2 of the total volume of propane in the retail marketer class; or

(b) persons representing more than 1/2 of the total volume of odorized propane in the producer class and more than 75 percent of the total volume of propane in the retail marketer class.

(6) VACANCIES.—Vacancies in unfinished terms of Council members shall be filled in the same manner as new appointments.

(7) REPRESENTATION.—In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a representative of the industry, including representation of—

(A) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(B) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(C) the National Propane Gas Association, the Gas Processors Association, or a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(1) SELECTION OF MEMBERS.—The qualified industry organizations shall select all retail marketer, public, and producer members of the Council.

(2) ALLOCATE.—The qualified industry organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall select the public members.

(3) APPOINTMENTS.—Initial appointments to the Council shall be made by the Secretary of Commerce.

(4) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm designated by the Council.

(5) TERMINATION OR SUSPENSION.—Termi- nation or suspension shall take effect if approved by—

(a) persons representing more than 75 percent of the total volume of odorized propane in the producer class and more than 1/2 of the total volume of propane in the retail marketer class; or

(b) persons representing more than 1/2 of the total volume of odorized propane in the producer class and more than 75 percent of the total volume of propane in the retail marketer class.

(6) VACANCIES.—Vacancies in unfinished terms of Council members shall be filled in the same manner as new appointments.

(7) REPRESENTATION.—In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a representative of the industry, including representation of—

(A) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(B) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(C) the National Propane Gas Association, the Gas Processors Association, or a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(1) SELECTION OF MEMBERS.—The qualified industry organizations shall select all retail marketer, public, and producer members of the Council.

(2) ALLOCATE.—The qualified industry organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall select the public members.

(3) APPOINTMENTS.—Initial appointments to the Council shall be made by the Secretary of Commerce.

(4) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm designated by the Council.

(5) TERMINATION OR SUSPENSION.—Termi- nation or suspension shall take effect if approved by—

(a) persons representing more than 75 percent of the total volume of odorized propane in the producer class and more than 1/2 of the total volume of propane in the retail marketer class; or

(b) persons representing more than 1/2 of the total volume of odorized propane in the producer class and more than 75 percent of the total volume of propane in the retail marketer class.

(6) VACANCIES.—Vacancies in unfinished terms of Council members shall be filled in the same manner as new appointments.

(7) REPRESENTATION.—In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a representative of the industry, including representation of—

(A) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(B) a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(C) the National Propane Gas Association, the Gas Processors Association, or a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(1) SELECTION OF MEMBERS.—The qualified industry organizations shall select all retail marketer, public, and producer members of the Council.

(2) ALLOCATE.—The qualified industry organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall select the public members.

(3) APPOINTMENTS.—Initial appointments to the Council shall be made by the Secretary of Commerce.
(1) LIMITATION ON EXPENSES.—The administrative expenses of operating the Council (not including costs incurred in the collection of the assessment under section 6) plus amounts included under paragraph (2) shall not exceed 10 percent of the funds collected by the Council in any fiscal year.

(2) REIMBURSEMENT.—The Council shall annually submit to the Secretary for costs incurred by the United States relating to the Council.

(3) LIMITATION ON REIMBURSEMENT.—A reimbursement under paragraph (2) for any fiscal year shall not exceed the amount that the Secretary determines is the average annual salary of employees of the Department of Energy.

(4) BUDGET.—

(a) IN GENERAL.—Each year the Council shall publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover the costs.

(b) SUBMISSION.—Following review and comment under paragraph (1), the Council shall submit the proposed budget to the Secretary and to Congress.

(c) RECOMMENDATIONS BY SECRETARY.—The Secretary may recommend any program or activity that the Secretary considers appropriate.

(d) RECORDS.—

(i) IN GENERAL.—The Council shall keep minutes, books, and records that clearly reflect all of the actions of the Council.

(ii) PUBLIC AVAILABILITY.—The Council shall make the minutes, books, and records available to the public.

(iii) AUDIT.—The Council shall have the books audited by a certified public accountant at least once each fiscal year and at such other times as the Council may determine.

(iv) COPIES.—Copies of an audit under paragraph (3) shall be provided to all members of the Council, all qualified industry organizations, and any other member of the industry on request.

(e) NOTICE.—The Council shall provide the Secretary with notice of meetings.

(f) ADDITIONAL REPORTS.—The Secretary may require the Council to provide reports on the activities of the Council and on compliance with complaints regarding the implementation of this Act.

(g) PUBLIC ACCESS TO COUNCIL PROCEEDINGS.—

(i) IN GENERAL.—All meetings of the Council shall be open to the public.

(ii) NOTICE.—The Council shall provide the public at least 30 days' notice of Council meetings.

(iii) MINUTES.—The minutes of all meetings of the Council shall be made readily available to the public.

(ii) REPORT.—

(a) IN GENERAL.—Each year the Council shall prepare and make publicly available a report that includes, in an identical fashion and description of all programs and projects undertaken by the Council during the previous year and those planned for the upcoming year.

(ii) RESOURCES.—The report shall detail the allocation and planned allocation of Council resources for each program and project.

SEC. 6. ASSESSMENTS.

(a) IN GENERAL.—The Council may levy an assessment on odorized propane in accordance with this section.

(b) INITIAL ASSESSMENT.—The Council shall set the initial assessment at no greater than $0.03 per gallon of odorized propane sold and placed into commerce.

(c) SUBSEQUENT ASSESSMENTS.—Subsequent to the initial assessment, annual assessments shall be sufficient to cover the costs of the plans and programs developed by the Council.

(3) ASSESSMENT MAXIMUM.—An assessment shall not be greater than 1/2 cent per gallon of odorized propane, unless approved by a majority of those voting in a referendum in the producer class and the retail marketer class.

(d) MAXIMUM INCREASE.—An assessment may not be raised by more than 1/2 cent per gallon of odorized propane annually.

(e) DUE DATE.—Assessments shall be payable to the Council on or before the last day of the month in which the assessment is made.

(f) IMPORTED PROPANE.—Propane imported from the United States is not subject to the assessment.

(g) LATE FEE.—The Council may establish a late fee for the assessment.

(h) ALTERNATIVE COLLECTION RULES.—The Council may establish alternative means of collecting the assessment if the Council determines that the alternative means is more efficient.

(i) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Council may invest funds collected through assessments, and any other funds received by the Council, only in—

(1) obligations of the United States or an agency of the United States;

(2) general obligations of a state or political subdivision of a state;

(3) an interest-bearing account or certificate of deposit issued by a member of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(j) STATE PROGRAMS.—

(a) IN GENERAL.—The Council shall establish a program coordinating the operation of the Council with the programs of any State propane education and research council created by State law, or any similar entity.

(b) COORDINATION.—The coordination shall include a joint or coordinated assessment collection program, reduced assessment, or an assessment rebate.

(k) REDUCED ASSESSMENT OR REBATE.—A reduced assessment or rebate shall be 20 percent of the regular assessment collected in a State under this section.

(l) PAYMENT OF ASSESSMENT REBATES.—An assessment rebate may be paid only to—

(a) a State education and research council created by State law or regulation that meets requirements established by the Council for specific programs approved by the Council; or

(b) a similar entity, such as a foundation established by the retail propane gas industry in a State that meets requirements established by the Council for specific programs approved by the Council.

SEC. 7. COMPLIANCE.

(a) IN GENERAL.—The Council may bring a civil action in a United States district court to compel compliance with an assessment levied by the Council under this Act.

(b) COSTS.—The costs of such action for compliance under this section may require payment by the defendant of the costs incurred by the Council in bringing the compliance action.

SEC. 8. LAND USE.

No funds collected by the Council shall be used in any manner to influence legislation or an election, but the Council may recommend to the Secretary changes in this Act or other statutes that would further the purposes of this Act.

SEC. 9. MARKET SURVEY AND CONSUMER PROTECTION.

(a) PRICE ANALYSIS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Secretary of Commerce, using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Council, the Secretary, and the public an analysis of changes in the price of propane relative to other energy sources.

(b) METHODOLOGY.—

(1) IN GENERAL.—The price analysis shall compare indexed changes in the price of consumer grade propane to a composite of indexed changes in the price of residential electricity, residential natural gas, and refined price to end-users of number 2 fuel oil on an annual national average basis.

(2) ROLLING AVERAGE PRICE.—For purposes of indexing changes in consumer grade propane, residential electricity, residential natural gas, and end-user number 2 fuel oil price, the Council may use a 5-year rolling average price beginning with the year 4 years prior the establishment of the Council.

(3) REANALYSIS.—On the expiration of each 10-year period beginning on the date on which activities are restricted under paragraph (1), the Secretary of Commerce shall conduct a new propane price analysis described in subsection (a).

(4) END OF RESTRICTION.—Activities of the Council shall continue to be restricted until the subsection until the percentage described in paragraph (1) is 10.1 percent or less.

SEC. 10. PRICING.

Notwithstanding any other provision of this Act, the price of propane shall be determined by market forces. The Council shall take no action, and no provision of this Act shall establish an agreement to, pass along to consumers the cost of the assessment provided for in section 6.

SEC. 11. RELATION TO OTHER PROGRAMS.

Nothing in this Act shall preempt or supersede other programs relating to propane education and research organized and operated under the laws of the United States or any State.

SEC. 12. REPORTS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and not less than once every 2 years thereafter, the Secretary of Commerce shall prepare and submit to Congress and the Secretary a report examining whether operation of the Council, in conjunction with the cumulative effects of market changes and Federal programs, has had an effect on consumer prices, including residential, agriculture, process, and nonfuel users of propane.

(b) CONSIDERATION BY THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—
By Mr. PRESSLER (for himself, Mr. CRAIG, Mr. LOTT, Mr. BENNETT, Mr. SIMPSON, Mr. STEVENS, Mr. MURkowski, Mr. INHOFE, Mr. KYL, and Mr. THOMAS):

S. 1647 -- A bill to amend the Federal Land Policy and Management Act of 1976 to provide that forest management activities shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL LAND AND POLICY MANAGEMENT ACT OF 1976 AMENDMENT ACT OF 1996

Mr. PRESSLER. Mr. President, today I am introducing legislation to bring some common sense to the judicial review of land management activities. In 1995, every single proposed timber sale in the Black Hills National Forest was challenged by extreme environmental groups. Was this necessary? No. My legislation would prevent environmental activists from "court shopping" when they challenge Federal timber sales and other land management activities. Is this necessary? Yes.

The Black Hills National Forest in western South Dakota, famous for its enormous stands of ponderosa pine, is an essential part of South Dakota's economy. The Black Hills forest products industry includes 18 sawmills and 12 secondary manufacturers producing a full spectrum of lumber products, from housing quality lumber to particleboard and wood pellets. The list is endless. The industry supports nearly 1,000 jobs.

Mayor Drue Vitter, of Hill City, SD, said it best:

"Good management of the forest by the Forest Service is the key to keeping the timber industry alive. If we lose the forest, we lose the jobs."

Mr. President, I agree with Drue Vitter.

Mr. President, the very first Federal timber sale in the Black Hills was the 1899 Needles sale. In 1899, the Forest Service prepared the so-called Needles timber sale—a sale 6.77 million board feet in the Norbeck Wildlife Reserve. The Needles sale was aimed at thinning the forest to prepare the National Forest to wildlife or insect infestations. It was much needed. The Needles sale was 90 percent needed to improve the health of the forest.

The Needles sale was successful. Today, a new generation of healthy ponderosa pine stands tall and strong—a testament to the proper stewardship of our national forests.

Recently, however, proper forest management has been hindered by lengthy court challenges of Forest Service timber sales. Environmental extremists challenge almost every proposed Federal timber sale—not just in South Dakota but across the country.

In the past 10 years, the number of Federal timber sales has decreased dramatically. In 1990, the Forest Service issued nine timber sale decisions in the Black Hills National Forest. In 1994, the Forest Service issued only four timber sale decisions on the Black Hills.

Why the decline? Mainly it is due to the never-ending court challenges. These reductions threaten the health of the forest, cause sawmills to go out of business, and cause loggers and other workers to lose their jobs. This is bad for the forest. This is worse for South Dakota. The Black Hills are the heart of the Black Hills Women in Timber organization.

Angie Many, founder of the Black Hills Women in Timber organization, described the situation in a poignant letter to the editor of the Rapid City Journal newspaper. "When less timber is harvested, we lose good jobs. Losing major portions of the Black Hills National Forest to wildlife or insect infestations are increased . . . local mills shut down or decrease shifts, displacing real people with effects that trickle down to other businesses . . . families like mine are torn apart as loggers and mill workers travel to other areas to find work . . . ."

Sadly, Angie's description is accurate. Often, when environmental extremists contest a Federal timber sale, they shop around for courts that will be most sympathetic to their environmental concerns and where they can get the longest delays. They seek court action in metropolitan areas—courts that frequently are busy and tend to be more liberal. Is this fair to loggers? Of course not.

Court-shopping is a sad fact of life right now in South Dakota. Here's an example: Two years ago, the Forest Service prepared the so-called Needles timber sale—a sale 6.77 million board feet in the Norbeck Wildlife Reserve. The Needles sale was aimed at thinning the stands of ponderosa pine which had become so dense from lack of management that wildlife no longer could survive there.

This presented the Forest Service with an opportunity—an opportunity to achieve a balanced approach to forest management. By thinning the forest, the Forest Service intends to create new habitat areas that would encourage the return of wildlife to the area. That's good sense—a plan that would result in both economic and environmental benefits.

The bill also was needed to ensure the long-term health of the forest within the Norbeck Wildlife Preserve. The Preserve is deteriorating rapidly and poses a severe fire risk. A fire in this area would be devastating. It could destroy the forest and could cause permanent damage to the faces of the Mount Rushmore National Monument which lies within the Norbeck Wildlife Preserve. The Needles timber sale would reduce drastically the risk of fire in an important area.

Like almost every Federal timber sale in the Black Hills, the Needles timber sale was challenged almost immediately by a coalition of environmental extremists. For the past 2 years, this case has been on in the Denver court system—with no hope of receiving any further attention. This just is not right.

As many of my colleagues know, the Denver court system is currently one of the busiest in the Nation. The Needles timber sale is not a high priority for this court, particularly now that the Oklahoma bombing trial has been moved to Denver. But, this is what environmental extremists want. They want a delay. My legislation would prevent environmental extremists from "court shopping." My bill would put an end to that.

My legislation would require that Federal land management activities—including timber sales—be subject to initial judicial review only in the United States district court for the district in which the affected Federal lands are located. Under my bill, the Needles timber sale could have been heard in South Dakota—where there is no caseload logjam, so to speak. South Dakota means no more court shopping. No more court backlog. No unnecessary delays. No lost timber revenue. And most important, no lost jobs. A court in South Dakota will understand the needs of South Dakota's forest and rangelands better than a remote big city, Federal court with a clear liberal bias.

Maurice Williams, the General Manager of Continental Lumber in Hill City, SD, agrees that South Dakotans are best equipped to determine how to manage the Black Hills. He said:

"The proof is on the ground. The Black Hills National Forest represents more than a hundred years of solid management. A judge who has never seen the Black Hills just isn't qualified to decide how the forest should or should not be managed."

Mr. President, I agree with Maurice. I believe it is time to give States and conscientious timber harvesters the home court advantage. Already this legislation has been cosponsored by several of my colleagues, including Senators CRAIG, LOTT, BENNETT, SIMPSON, STEVENS, MURKOWSKI, INHOFE, KYL and THOMAS. I ask unanimous consent that a letter of support from the Black Hills Forest Resource Association be printed in the RECORD. I hope all my colleagues will take a close look at this bill and support its eventual passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:
Those who oppose any and all timber activities go to great lengths to obstruct the process. Frequently, they shop around for a court which supports their agenda. This usually creates a situation where the court making the ruling has neither a geographical connection nor a genuine first-hand understanding of the case and its consequences. Does this make judicial sense to any of my Senate colleagues? Senator Pressler’s proposal is direct and straightforward. It simply requires that the court which conducts the judicial review and renders the decision must include the land in question within its district. Why is a Denver court more qualified to review a Black Hills timber sales than one in South Dakota? Common sense says the opposite would be true.

Senator Pressler’s approach will not prevent groups from challenging the timber sales on Federal lands. This proposal will not roll back any environmental statutes. To the contrary, it actually means the judicial decisions will be made more promptly. Why would any of these groups not want their court challenges acted upon promptly?

Senator Pressler’s plan would also cover other public policy issues like grazing permits and resource management plans. It makes sense that these judicial decisions, like timber sales, are made by those who will be directly affected, and who have the most knowledge of the situations.

Senator Pressler’s approach can be characterized as a focused and precise fix to the underlying statutes. It is in keeping with the administration’s “rifleshot” procedure. The fundamental law is left in place and mere fine tuning occurs.

I ask all of my colleagues to give serious examination to this legislative proposal. It has merit and deserves both your support and your cosponsorship.

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ADDITIONAL COSPONSORS
S. 287

At the request of Mrs. Hutchison, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 953

At the request of Mr. Chafee, the names of the Senator from Massachusetts [Mr. Kerry], the Senator from Minnesota [Mr. Wellstone], and the Senator from New Hampshire [Mr. Smith] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 969

At the request of Mr. Bradley, the name of the Senator from California [Mrs. Feinstein] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1039

At the request of Mr. Abraham, the name of the Senator from Arizona [Mr.McCain] was added as a cosponsor of S. 1039, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1183

At the request of Mr. Hatfield, the name of the Senator from Wisconsin [Mr. Feingold] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931—known as the Davis-Bacon Act, to revise the standards for coverage under the act, and for other purposes.

S. 1189

At the request of Mr. DeWine, the name of the Senator from Louisiana [Mr. Johnston] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate release with respect to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1245

At the request of Mr. Ashcroft, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of S. 1245, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hardcore juvenile offenders and treat them as adults, and for other purposes.

S. 1397

At the request of Mr. Kyl, the name of the Senator from Kentucky [Mr. McConnell] was added as a cosponsor of S. 1397, a bill to provide for State control over fair housing matters, and for other purposes.

S. 1512

At the request of Mr. Lugar, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of S. 1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1610

At the request of Mr. Bond, the name of the Senator from Colorado [Mr. Brown] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. Helms, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1613

At the request of Mr. Cochran, the names of the Senator from Iowa [Mr.
GRASSLEY) and the Senator from South Dakota [Mr. PESSLER] were added as cosponsors of S. 1613, a bill to amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs, and for other purposes.

SENATE RESOLUTION 85
At the request of Mr. CHAFEE, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 152
At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 152, a resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Senate for enactment, and for other purposes.

SENATE CONCURRENT RESOLUTION 49—RELATIVE TO THE BILL (H.R. 2854) TO MODIFY THE OPERATION OF CERTAIN AGRICULTURE PROGRAMS

Mr. LUGAR submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 49
Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agriculture programs, shall make the following corrections:

In section 215—
(1) in paragraph (1), insert “and” at the end;
(2) in paragraph (2), strike “,” and at the end and insert a period; and
(3) strike paragraph (3).

SENATE RESOLUTION 233—RELATIVE TO THE 1999 WOMEN'S WORLD CUP TOURNAMENT

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 233
Whereas soccer is one of the world’s most popular sports;
Whereas the Women's World Cup tournament is the single most important women's soccer event;
Whereas the 1995 Women's World Cup tournament was broadcast to millions of fans in 67 nations;
Whereas the United States Soccer Federation is attempting to bring the 1999 Women's World Cup tournament to the United States;

Resolved, That the Senate—
(1) recognizes and supports the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States; and
(2) requests that the President of the United States designate appropriate Federal agencies to work with the United States Soccer Federation to meet the Federation Internationale de Football Association's requirements for the 1999 Women's World Cup tournament host country.

Ms. SNOWE. Mr. President, I rise today to submit a resolution supporting the efforts of the U.S. Soccer Federation to bring the 1999 Women's World Cup tournament to the United States.

Soccer is one of the world's most beloved sports, and its popularity in the United States has grown rapidly over the past decade. The 1995 Women's World Cup tournament, held every 4 years, is the single most important women's soccer event; the 1995 Women's World Cup was broadcast to millions of fans in 67 nations. Hosting this event will contribute to national goodwill and be a clear signal that America is serious about encouraging female participation in sports. Indeed, this tournament would serve as a showcase of the best female soccer athletes in the world, and something to which girls and young women could aspire. Already, girls' soccer has experienced an explosion in popularity. On the high school level, it is reported that 41,119 girls played soccer in 1980, while 191,350 played in the 1994-95 school year. That's a remarkable increase of over 400 percent.

This increase is reflected on the collegiate level as well. In 1981, 77 schools sponsored women's soccer. By 1995, that number had swelled to 617. And a recent national survey indicates that of all the Americans who played soccer at least once during 1994, 39 percent percent were women.

These are very encouraging numbers. They demonstrate that soccer is a very appealing sport to women, and they demonstrate that soccer is an excellent way to get girls and women excited about participating in sports.

We all know that sports are just as important an activity for girls and boys and men. Through sports, girls and women can get a feel for the positive competitive spirit which was, until recently, almost exclusively the property of boys and men.

Women and girls who participate in sports develop self-confidence, dedication, a sense of team spirit, and an ability to work under pressure—traits which enhance all aspects of their lives. In fact, 80 percent of women identified as key leaders in Fortune 500 companies have sports backgrounds. Having the United States host the Women's World Cup in 1999 would be an inspirational way to highlight the excitement of participation in sports, and the heights of greatness which women can reach in athletics. Indeed, it would give Americans the chance to see their own outstanding female soccer players.

The United States hosted the 1994 Men's World Cup tournament to the United States; the U.S. men won the inaugural title in 1991, and finished third in last year's event before sold out crowds.

The success of the 1994 Men's World Cup soccer tournament in the United States showed the world that we were ready to be the center of the soccer universe. Indeed, I think we all felt justifiable pride in providing the world with excellent venues as well as first-class transportation, security, communication, and accommodations.

In order for the U.S. Soccer Federation to submit a formal bid to the Federation Internationale de Football Association [FIFA] to host the Women's World Cup, it must show Government backing. In 1987, a similar resolution was agreed to demonstrate support for the U.S. bid to host the 1994 Men's World Cup. By agreeing to this resolution, we will officially recognize their efforts and request of the United States designate appropriate Federal agencies to work with the U.S. Soccer Federation to meet FIFA's requirements for the 1999 tournament's host country.

I hope my colleagues that will join me in supporting this worthwhile effort.

SENATE RESOLUTION 234—RELATIVE TO THE DEATH OF EDMUND S. MUSKIE

Mr. DASCHLE (for himself, Mr. DOLE, Mr. COHEN, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 234
Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie.
Whereas, Edmund S. Muskie served six years in the Maine House of Representatives, becoming minority leader, and, in 1964, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years.
Whereas, after a second two-year term, he went on in 1968 to become the first popularly elected Democratic Senator in Maine's history.
Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice Presidential nominee.
Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State.
Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities.

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourns as a further mark of respect to the memory of the deceased Senator.
SENATE RESOLUTION 235—T O P R O-
CLAIM "NATIONAL ROLLER COASTER WEEK"

Mr. THURMOND submitted the fol-
lowing resolution; which was consid-
ered and agreed to:

S. RES. 235

Whereas, the roller coaster is a unique
form of fun, enjoyed by millions of Ameri-
cans, as well as people all over the world;

Whereas, roller coasters have been provid-
ing fun since the 15th century;

Whereas, in 1885, an American named Phili-
pin Hitchcock invented a steam-powered chain
lift to hoist coasters to new heights and new
down-hill speeds;

Whereas, advances in technology and a re-
newed interest in leisure and recreation have
meant a resurgence for roller coasters;

Whereas, there are an estimated 500 roller
coasters worldwide, and more than fifty new
projects underway in 1996;

Whereas, the world’s oldest existing roller
coaster, Leap-The-Dips, is located at
Lakemont Park in Altoona, Pennsylvania,
and is currently being restored;

Whereas, in 1986, economist Thomas pro-
claims the week of June 15 through June 22, 1996, as
“National Roller Coaster Week”:

AMENDMENTS SUBMITTED

THE PRESIDIO PROPERTIES
ADMINISTRATION ACT OF 1996

McCAIN AMENDMENT NO. 3555
(Ordered to lie on the table.)

Mr. McCAIN submitted an amend-
ment intended to be proposed by him
to amendment No. 3564 proposed by Mr. Mur-
kowski to the bill H.R. 1296 to
provide for the administration of cer-
tain Presidio properties at minimal
cost to the Federal taxpayer; as fol-
lows:

At the appropriate place in the amendment
insert the following:

"Notwithstanding any other provision con-
tained in any other Act, nothing in this act
authorizing or requiring the Secretary of the Interior
or the Secretary of Agriculture to acquire
land shall be construed to take pre-
cedence or assume a higher priority over any
other acquisitions undertaken by either the
Secretary of the Interior or the Secretary of
Agriculture."

THOMAS AMENDMENT NO. 3566
(Ordered to lie on the table.)

Mr. THOMAS submitted an amend-
ment intended to be proposed by him
to amendment No. 3564 proposed by Mr. Mur-
kowski to the bill H.R. 1296, supra; as fol-
lops:

On page 2, strike lines 20 through 23 and
insert the following:

(2) ACCESS BY INSTITUTIONS OF HIGHER E-
DUCATION.—The State of Wyoming shall provide
access to the property for institutions of higher
education at a compensation level that is agreed to by the State and the
institution of higher education.

(3) REVERSION.—If the property is used for a
purpose not described in paragraph (1) or
(2), all right, title, and interest in and to the
property shall revert to the United States.

HATCH AMENDMENT NO. 3557
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
to amendment No. 3564 proposed by Mr. Brad-
ley to amendment No. 3564 proposed by Mr. Mur-
kowski to the bill H.R. 1296, supra; as fol-
lows:

In lieu of the matter proposed insert the
following:

On page 150, line 6, strike “necessary or”
and insert “necessary and”:

HATCH AMENDMENT NO. 3558
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
to amendment No. 3564 submitted by Mr. Mur-
kowski to the bill H.R. 1296, supra; as fol-
lows:

In lieu of the matter proposed insert the
following:

(1) FINDING.—The Congress finds and di-
rects that all public lands in the State of Utah administered by the Bureau of Land
Management have been adequately studied
for wilderness designation pursuant to sec-
tions 202 and 603 of the Federal Land Policy
and Management Act of 1976 (U.S.C. 1712 and
1782);

(2) RELEASE.—Except as provided in sub-
section (c), any public land administered by the Bureau of Land Management in the State
of Utah not designated wilderness by
this Title are no longer subject to section
603(c) of the Federal Land Policy and Man-
agement Act of 1976 (43 U.S.C. 1783(c)).

HATCH AMENDMENT NO. 3559
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
to amendment No. 3564 submitted by Mr. Fei-
gold to amendment No. 3564 proposed by Mr. Mur-
kowski to the bill H.R. 1296, supra; as fol-
lows:

In lieu of the matter proposed insert the
following:

(1) FINDING.—The Congress finds and di-
rects that all public lands in the State of Utah administered by the Bureau of Land
Management have been adequately studied
for wilderness designation pursuant to sec-
tions 202 and 603 of the Federal Land Policy
and Management Act of 1976 (U.S.C. 1712 and
1782);

(2) RELEASE.—Except as provided in sub-
section (c), any public land administered by the Bureau of Land Management in the State
of Utah not designated wilderness by
this Title are no longer subject to section
603(c) of the Federal Land Policy and Man-
agement Act of 1976 (43 U.S.C. 1783(c)).

HATCH AMENDMENT NO. 3560
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
to amendment No. 3564 submitted by Mr. Mur-
kowski to the bill H.R. 1296, supra; as fol-
lows:

In lieu of the matter proposed insert the
following:

(1) FINDING.—The Congress finds and di-
rects that all public lands in the State of Utah administered by the Bureau of Land
Management have been adequately studied
for wilderness designation pursuant to sec-
tions 202 and 603 of the Federal Land Policy
and Management Act of 1976 (43 U.S.C. 1783(c)).

HATCH AMENDMENT NO. 3561
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
to amendment No. 3564 submitted by Mr. Bump-
ers to amendment No. 3564 proposed by Mr. Mur-
kowski to the bill H.R. 1296, supra; as fol-
lows:

In lieu of the matter proposed insert the
following:

(1) FINDING.—The Congress finds and di-
rects that all public lands in the State of Utah administered by the Bureau of Land
Management have been adequately studied
for wilderness designation pursuant to sec-
tions 202 and 603 of the Federal Land Policy
and Management Act of 1976 (43 U.S.C. 1783(c)).

HATCH AMENDMENT NO. 3562
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
of the Federal Land Policy and Man-
agement Act of 1976 (43 U.S.C. 1783(c)).

Such land shall be managed for the full range of uses as defined in section 1702(c) of said Act
(43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to
section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3563
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
of the Federal Land Policy and Man-
agement Act of 1976 (43 U.S.C. 1783(c)).

Such land shall be managed for the full range of uses as defined in section 1702(c) of said Act
(43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to
section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3564
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
of the Federal Land Policy and Man-
agement Act of 1976 (43 U.S.C. 1783(c)).

Such land shall be managed for the full range of uses as defined in section 1702(c) of said Act
(43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to
section 202 of such Act (43 U.S.C. 1712).

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3565
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
of the Federal Land Policy and Man-
agement Act of 1976 (43 U.S.C. 1783(c)).

Such land shall be managed for the full range of uses as defined in section 1702(c) of said Act
(43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to
section 202 of such Act (43 U.S.C. 1712).

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3566
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
of the Federal Land Policy and Man-
agement Act of 1976 (43 U.S.C. 1783(c)).

Such land shall be managed for the full range of uses as defined in section 1702(c) of said Act
(43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to
section 202 of such Act (43 U.S.C. 1712).

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3567
(Ordered to lie on the table.)

Mr. HATCH submitted an amend-
ment intended to be proposed by him
of the Federal Land Policy and Man-
agement Act of 1976 (43 U.S.C. 1783(c)).

Such land shall be managed for the full range of uses as defined in section 1702(c) of said Act
(43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to
section 202 of such Act (43 U.S.C. 1712).

(4) Cross Canyon; UT00600229/CO00300265.

(B) RELEASE.—Except a provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783c). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3662
(Ordered to lie on the table.)
Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3591 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(1) A FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for the purpose of land management plans adopted pursuant to section 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1783c). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3663
(Ordered to lie on the table.)
Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3562 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

On page 526, line 12, strike "Title," and in
the following:

``(3)

(A) the amount that the President proposes to cancel.

``(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved.

``(C) the reasons why the budget item should be canceled;

``(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

``(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the estimated fiscal, economic, and budgetary effect thereof, the estimated effect of the proposed cancellation on the objectives, purposes, and programs for which the budget item is provided.

``(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

``(i) with respect to a rescission bill, reduce the discretionary spending limits under section 603 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount;

``(ii) with respect to a tax expenditure or direct spending bill, adjust the balances for the budget year and each outyear as reported in section 252(d) of the Congressional Budget and Impoundment Control Act of 1985 to reflect such amount.

``(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

``(C) PROCEDURES FOR EXPEDITED CONSIDERATION.—

``(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is introduced, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

``(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day following the date of receipt of the bill, and the bill shall be placed on the appropriate calendar.

``(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the President within one calendar day of the day on which the bill is passed.

``(2)(A) During consideration under this subsection in the House of Representatives, the Speaker of the House of Representatives may move to strike any proposed cancellation of a budget item.
"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion in order, not to be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives shall be controlled by the majority leader and the minority leader or their designees.

"(E) Debate in the Senate on any debatable motion or appeal in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours.

"(F) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall be divided equally between, and controlled by, the majority leader and the minority leader or their designees.

"(G) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition to the motion or appeal shall be controlled by the majority leader or his designee. Such leaders, or either of them, may, from time under their respective jurisdiction, request an additional time to any Senator during the consideration of any debatable motion or appeal.

"(H) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommence debate pursuant to a bill introduced in the Senate under paragraph (1)(A). A motion further to limit debate is not debatable.

"(I) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition to the motion or appeal shall be controlled by the majority leader or his designee. Such leaders, or either of them, may, from time under their respective jurisdiction, request an additional time to any Senator during the consideration of any debatable motion or appeal.

"(J) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall not exceed 4 hours, which shall be divided equally between, and controlled by, the majority leader and the minority leader or their designees.

"(K) Debate in the Senate on any debatable motion or appeal in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours.

"(L) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall be divided equally between, and controlled by, the majority leader and the minority leader or their designees.
(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed amendment; and

(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget authority is provided.

(4)(A) Not later than 5 days after the date of enactment of a bill containing an amendment designated for defendant for deficiency, or continuing appropriations, the Appropriations Committees shall report the bill without substantive reevaluation of the decisions made by the President or the Speaker under section 601(a) to reflect such amount.

(B) Not later than 5 days after the date of receipt of that special message, any Senator or member of the House of Representatives shall be requested by the majority leader and the minority leader to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of an obligation for a period not to exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be in order in order to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equitably divided between, and controlled by, the majority leader and the minority leader or their designees.

(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 2 hours, minus such times (if any) as Senators consumed or yielded back during consideration of a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equitably divided between, and controlled by, the majority leader and the minority leader or their designees.

(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

(2) any such motion or appeal, the time in opposition thereto, shall be controlled by the majority leader or his designee. Such leaders, or either of them, may, from time under consideration of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(3) the term `budget item' meansÐ

(A) an amount, in whole or in part, of budget authority provided in an appropriation Act; or

(B) an amount of direct spending;

(C) a targeted tax benefit; or

(D) the term `cancellation of a budget item' means Ð

(A) the rescission of any budget authority provided in an appropriation Act;

(B) the repeal of any amount of direct spending; or

(C) the repeal of any targeted tax benefit; and

(D) the term `targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a particular class of taxpayers, or for which no such provision is limited by its terms to a particular taxpayer or a particular class of taxpayers. Such term does not include any provision protective of a particular class of taxpayers on the basis of general demographic conditions such as income, number of dependents, or marital status.

EXERCISE OF RULEMAKING POWERS.Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

CLERICAL AMENDMENTS.The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the section number of "Sec. 1012A. Expedited consideration of certain proposed rescissions and repeal of tax expenditures and other direct spending." the section number of "Sec. 1012A. Expedited consideration of certain proposed rescissions and repeal of tax expenditures and other direct spending."

Effective Period.The amendments made by this Act shall

(1) take effect on the date that is 2 days after the date of enactment of this Act; and

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act.
The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 2 p.m., in SH-219 to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to hold hearings on the Global Proliferation of Weapons of Mass Destruction, Part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPower

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet on Wednesday, March 27, 1996, at 1:30 p.m., in open session, to receive testimony on proliferation of weapons of mass destruction and the impact of export controls on national security in review of the defense authorization request for the fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that Acquisition and Technology Subcommittee of the Committee on Armed Services be authorized to meet at 10:00 a.m. on Wednesday, March 27 in open session, to receive testimony on proliferation of weapons of mass destruction and the impact of export controls on national security in review of the defense authorization request for the fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to conduct a mark-up of the following nominees: the Honorable Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System; The Honorable Alice Rivlin, of Pennsylvania, to be a Governor and serve as Vice Chairman of the Board of Governors of the Federal Reserve System; Laurence Meyer, of Missouri, to be a Governor of the Board of Governors of the Federal Reserve System; Stuart E. Eizenstat, of Maryland, to be under Secretary of Commerce for International Trade; and Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DOLE. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, March 27, at 9 a.m., Hearing Room (SD-406), on possible Federal legislative reforms to improve prevention of, and response to, oil spills in light of the recent North Cape spill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 10 a.m., to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9 a.m. The committee will be in executive session on S. 1477, the Food and Drug Administration Performance and Accountability Act and the Older Americans Act Reauthorization, an original bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOLE. I ask unanimous consent that the Committee on Labor and Human Resources be authorized to hold a meeting during the session of the Senate on Wednesday, March 27, 1996, at 9 a.m. The committee will be in executive session on S. 1477, the Food and Drug Administration Performance and Accountability Act and the Older Americans Act Reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9:30 a.m., to hold a hearing on campaign finance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SECURITY

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Security be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9:30 a.m. to hold an open hearing on intelligence matters.
Jefferson remained undaunted, focused, and incredibly polite. Without ever complaining, she voiced the concerns of herself and her community. A local newspaper, the State, captured her humility and humor in an interview in 1995. "It isn’t a disgrace to be poor. It’s just inconvenient."

After nearly three decades of fighting, the community finally received $3.9 million in Federal and State grants, and the construction began. On July 12, 1995, the people of Little Camden, and their Taylors got a new sewage system. They also got the opportunity to thank Mother Jefferson, in the form of a celebration at her house. As the crowd squeezed into her bathroom to share the communities’ very first toilet flush, She said “I’m so grateful that I’m lost for words.”

Mother Jefferson was one of the more articulate, gracious, determined people I have met. She was a truly good woman who participated in community affairs, and an enormous difference in people’s lives. Her involvement and her spirit serve as a lasting lesson to us all. When writers or politicians talk about what makes America great, they are talking about people like Mother Jefferson. I send my sincere condolences to her family and friends. Like them, I will not forget her.

**BUDGET CUTS AND EDUCATION**

Mr. SIMON. On March 12 the Senate voted to restore $2.6 billion in Federal funding for education. While this would still leave Federal support for education below 1995 levels, I was pleased to see the Senate take bipartisan action to at least partially reverse what was clearly an unwise decision. Senator HARKIN, Senator SPECTER, and the other Senators who have shown strong leadership on this issue deserve a great deal of credit for their efforts.

Recently, the Chicago Tribune published an article on the effect that Federal education cuts would have for the State of Illinois and the city of Chicago. The article gave a compelling account of what such cuts would mean for the millions of students. I strongly urge the Senate to maintain its position in conference to prevent the harmful impact that the House-proposed cuts would have on Illinois and on the Nation.

I ask that the Chicago Tribune article be printed in the Record.

The article follows:

[U.S. Budget Cuts Impact Chicago Schools](http://www.chicagotribune.com)

(By Nathaniel Sheppard, J.)

Three years ago, at least two fights a day broke out at Ravenswood Elementary School in Chicago’s rough and tumble Uptown community.

That number is down to about two per month, according to school officials, largely due to a Peer Leadership project that is part of a nationwide program known as Safe and Drug-Free Schools and Communities.

Despite the program’s success at Ravenswood and other city schools, it is at risk of becoming a casualty in the battle between Congress and President Clinton over the Federal budget.

It is one of several programs that could be crippled by Congress’s share of Federal funds under the Title I program for the Nation’s neediest children.

The cuts are incorporated in a temporary spending bill, known as a continuing resolution, that is intended to keep government functioning during the budget crisis.

Under the stopgap measure, Federal funding for Title I programs in the State is cut by $37.7 million from its $337.3 million in the 1995 fiscal year to $263 million in fiscal 1996.

The cuts could lead to substantial layoffs of teachers—as many as 600 in Chicago alone, and cuts in after-school programs, 2,000 counseling estates—and could hobble programs that have become the centerpiece of national and State efforts to make schools safe, drug-free and internationally competitive by the year 2000.

The 30-year-old Title I program is the largest run by the Department of Education.

It provides remedial aid to more than 50,000 underperforming students in public and private schools, including two-thirds of all elementary schools.

The program also funds salaries for thousands of teachers and aides.

Congress passed the temporary spending bill in December to keep agencies running after parts of the government were shut down twice last year in the budget dispute.

Clinton has agreed to Republican demands to balance the budget in 7 years using economic assumptions of the Congressional Budget Office. But Democrats and Republicans still disagree over how deep some budget cuts should be.

Republicans argue that Democrats exaggerate the harm the cuts will cause and say that in several areas, their reforms will lead to increased Federal spending.

Nationwide, cuts in the Title I program total $1.1 billion or 17 percent over last year, under the current continuing resolution.

That reduces spending to $7 billion for individualized instruction, smaller classes, after-school study programs, computers, projects to encourage parental involvement in schools and other strategies some educators say are crucial in motivating the federally mandated year 2000 goal.

"The cuts are a serious problem that threatens the safety and well-being of 40 million school children,\n
"For us, the impact will be devastating," said Patricia McPhearson, manager of the Safe and Drug-Free Schools Program in Illinois.

Its budget is cut 25 percent to $4.3 million in Chicago under the stopgap funding.

Statewide, cuts in the program total $4.7 million. Under even larger cuts proposed by House Republicans, the State would lose $20 million from the program.

Popular projects such as those at Sauganash and Ravenswood schools, and Amundsen High School could become skeletal programs.

The program at Amundsen seeks to change the climate of community violence.

**NATIONAL DOMESTIC VIOLENCE HOTLINE**

- Mr. WELLSTONE. Mr. President, 2 weeks ago I came to the floor to announce the realization of another component of our initiative to prevent violence against women—the national domestic violence hotline. At that time, I indicated that the hotline would be opened on the floor every day for 2 weeks, whenever my colleagues would be kind enough to give me about 30 seconds of time, to read off the 800 number of the hotline.

- The toll free number, 1-800-799-SAFE, will provide information, crisis assistance, counseling, and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, 1-800-787-3224.

Mr. President, roughly 1 million women are victims of domestic violence each year and battering may be the single most common cause of injury to women—more common than auto accidents, muggings, or rapes by a statistically significant margin. According to the FBI, one out of every two women in America will be beaten at least once in the course of an intimate relationship. The FBI also speculates that battering is the most under-reported crime in the country. It is estimated that the new hotline will receive close to 10,000 calls a day.

I hope that the new national domestic violence hotline will help women and families find the support, assistance, and services they need to get out of homes where there is violence and abuse.

Mr. President, once again, the toll free number is 1-800-799-SAFE, and 1-800-787-3224, for the hearing impaired.

**OPERATION SAFE HAVEN AND THE ASSETS OF EUROPEAN JEWS IN SWISS BANKS**

Mr. D’AMATO. Mr. President, I rise today to discuss an issue of great emotion and importance to Holocaust survivors and their families. The issue at hand is an inquiry into the return, by Swiss banks, of assets deposited by European Jews and others in the years preceding the Holocaust.

From the 1930’s until the onset of the Holocaust, European Jews and others deposited funds and other assets in Swiss banks for safekeeping. In doing so, they were trying to avoid what some inevitably saw as the writing on the wall, namely, the Holocaust. To many, it was an act of survival. Others did so, simply for business reasons. At the end of the war however, a great many Swiss banks denied holding these assets.

Throughout the intervening years, the victorious Allies made several requests of the Swiss Government for cooperation in finding these assets. Several organizations, in addition to the Allies made repeated and determined efforts to persuade the Swiss to examine their banks and to find these missing assets.

For the Swiss though, the matter was simple, they did all that they could to...
March 27, 1996

Mr. President, as you can see, these amounts are of an incredible magnitude. If they are accurate numbers, there is no local problem and the Swiss banks have a lot of questions to answer, and I plan to pose questions to them today. I plan on actively pursuing this matter until I achieve an authoritative, accurate and final accounting of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled.

The document follows:

[USG-SWI-105; Secret: No. 12100; Bern, Switzerland, Reference: SH No. 74, Date: July 12, 1945]

SAFEHAVEN REPORT


Reference is made to SAFEHAVEN Report No. 4 suggested by our informants, and also includes additional information in regard to other balances not heretofore reported. The attached list, which contains more detailed information relative to the property held than the earlier one, is obtained at a later date.

The attached list represents certain amendments to the list appended to SAFEHAVEN Report No. 4. It is reliably reported that since 1941 S.G.S. also has acted in a banking or fiduciary capacity by holding funds representing profits realized by its Balkan customers on shipments of merchandise to neutral and to enemy territory. The transactions which resulted in the accumulation of profits involved over invoicing consignees, shipment of the merchandise against payment in Swiss francs, and withholding by S.G.S. of the excess payments or balances.

"It is stated that the aforementioned funds and other property are beneficially owned principally by Jewish persons who are nationals of and residents of the abovementioned countries and who were endeavoring (1) to profit from black market operations in local currencies of the Balkan countries; (2) to move funds out of their home countries; or (3) to ensure that the funds would be safe from confiscation by the local authorities. During the present investigation, however, a question was raised as to whether or not the above statement also was true for balances held for persons who are nationals and also residents of Switzerland and holding by S.G.S. of the excess payments or balances hold today with 3 percent, 4 percent, and 5 percent interest respectively. The amounts are as follows:

<table>
<thead>
<tr>
<th>Currency</th>
<th>1945 amount</th>
<th>1995 amount</th>
<th>1945+3%</th>
<th>1995+3%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Swiss Francs</td>
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<td>$264,223</td>
<td>$214,915</td>
<td>$371,209</td>
</tr>
<tr>
<td>French Francs</td>
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<td>$1,923</td>
<td>$4,925</td>
<td>$8,568</td>
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<td>$1,203</td>
<td>$1,090</td>
<td>$1,792</td>
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<tr>
<td>Canadian Dollars</td>
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<td>$6,034</td>
<td>$7,148</td>
<td>$12,000</td>
</tr>
<tr>
<td>U.S. Dollars</td>
<td>$119,020</td>
<td>$2,233</td>
<td>$119,020</td>
<td>$2,233</td>
</tr>
<tr>
<td>Dutch Flair</td>
<td>$379</td>
<td>$1,066</td>
<td>$930</td>
<td>$1,668</td>
</tr>
<tr>
<td>Belgian Luxur</td>
<td>$3,223</td>
<td>$8,585</td>
<td>$10,988</td>
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<tr>
<td>British Sterling</td>
<td>$337,970</td>
<td>$640,570</td>
<td>$471,200</td>
<td>$832,630</td>
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The inquiry will examine the procedures by which Swiss banks calculated the amount of assets in their possession. In these post-war searches, 1962-63, and most recently in 1995, the Swiss banks used different criteria to conduct their examinations. Therefore, the Banking Committee will evaluate how the banks searched their accounts, and what kind of accounts might have been missed. The Committee will try to discern if the searches were comprehensive enough to find all assets.

While in the early stages of the search, my staff has found declassified military intelligence documents that detail a variety of fascinating facts vital to this inquiry. In "Operation Safe Haven," a program of the Joint Treasury Department-State Department operation to locate and identify Nazi assets and looted assets in Europe, Military Intelligence officers filed a series of now-declassified reports. One such document, dated July 12, 1945, details a list of 182 separate bank accounts held by Societe General de Surveillance S.A. of Geneva. These holders of these bank accounts were from Romania, Hungary, Bulgaria, Croatia, Moravia, Slovakia, France, Holland, and Denmark.

This important document is vital to understanding the issue of Holocaust assets in Swiss banks. More importantly, we must compare it to the declarations of the Swiss that they had no real assets in their possession, and to later fulfillment of some claims made with them. To start, I would like to know if these accounts are among those found in the post-war, 1962, and 1995 searches, and if not, where is the money now?

At this time, Mr. President, I ask that the above mentioned document be printed in the RECORD at the conclusion of my remarks.

Mr. President, this document proves vital to countering the claim that there were no assets, or very little. In the help of Wycliffe B. Ensign of the Congressional Research Service, I would like to list the amount of assets, held in the various currencies reported, converted into dollars at the 1945 rate. Additionally, I will list the value of those assets in 1995 dollars accounting for inflation, as well as the amounts the accounts would hold today with 3 percent, 4 percent, and 5 percent interest respectively. The amounts are as follows:

Mr. President, as you can see, these amounts are of an incredible magnitude. If they are accurate numbers, there is no local problem and the Swiss banks have a lot of questions to answer, and I plan to pose questions to them today. I plan on actively pursuing this matter until I achieve an authoritative, accurate and final accounting of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled.

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"The only countries for which we hold financial accounts are Romania and to a very
limited extent Bulgaria. We have never transacted such business for people in other countries."

From the foregoing it would appear that our earlier remarks do not hold for nationals and residents of Hungary, Croatia, Moravia, Slovakia, France, Holland, and Denmark. This conclusion seems to be correct since at our request the Geneva Consulate discussed the memorandum of June 18, 1945, further with the S.G.S. and on July 2, 1945, advised in part as follows:

The memorandum of June 18 from S.G.S. is correct. On the French list all but the last two entries had been held since before the war. The last two were acquired from a bank in France. We have no account of the circumstances. The Hungarian gold (as also the French gold) was deposited with the S.G.S. without having any knowledge as to how it had been acquired.

For your further information, we are advised by the Geneva Consulate in their letter of July 2, 1945, that all dollar balances are deposited in blocked accounts except one of $2000 held for Maurice Moiso Rothmann, Bucharest, which is in the form of currency.

With regard to the balances held in French francs, the following was reported in the Geneva Consulate's letter referred to above:

"There is only one case involving a balance in French francs, the following was reported in the Geneva Consulate's letter referred to above:

``Holdings shown on the French list should supposedly be declared by the owners. S.G.S. has no obligation to declare anything in these cases. It is not known for sure, but the presumption is that the French owners have not made any declarations in order to avoid taxation.

This information is reported to Washington and London for whatever further action may be desired." We should like to request again that this information be regarded as extremely confidential and be regarded that it will not be disclosed to Swiss or other sources. The request is for the protection of our informants who appear to have been very cooperative.

Enclosures: 3 lists

| BALKANS |

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<tr>
<th>Name of Comptoir</th>
<th>Currency</th>
<th>Amount</th>
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<tr>
<td>M. Adler, Bucharest</td>
<td>FrS</td>
<td>22,018.50</td>
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<tr>
<td>M. Adler, Bucharest</td>
<td>S</td>
<td>19,213.70</td>
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Enclosure No. 1 to Despatch No. 12100 (SH No. 74) dated July 12, 1945, from the American Legation Bern.
Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 235, submitted earlier today by Senator Thurmond. The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions are agreed to, en bloc.

So the concurrent resolutions (H. Con. Res. 146 and 147) were agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

NATIONAL ROLLER COASTER WEEK

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 235, submitted earlier today by Senator Thurmond. The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions are agreed to, en bloc.

So the concurrent resolutions (H. Con. Res. 146 and 147) were agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 235) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 235

Whereas, the roller coaster is a unique form of fun, enjoyed by millions of Americans, as well as people all over the world;

Whereas, roller coasters have been providing fun since the 15th century;

Whereas, in 1885, an American named Philip Hinckle invented a steam-powered chain lift to hoist coasters to new heights and new downhill speeds;

Whereas, advances in technology and a renewed interest in leisure and recreation have meant a resurgence for roller coasters;

Whereas, engineers working with computers have been able to create the safest, most thrilling rides ever;

Whereas, there are an estimated 50 roller coasters worldwide, and more than fifty new projects underway in 1996;

Whereas, the world's oldest existing roller coaster, Leap-The-Dips, is located at Lakemont Park in Altoona, Pennsylvania, and is currently being restored;

Resolved, That the Senate proclaims the week of June 16 through June 22, 1996, as "National Roller Coaster Week".

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, for the information of all Senators, there will be a vote with respect to the farm conference report and a cloture vote with respect to the Kennedy amendment back-to-back, hopefully, by morn- ing. Also, the Senate is expected to consider the debt limit and the omnibus appropriation conference report prior to the close of business on Friday. The Senate could also be asked to resume the Presidio legislation. In addition, it is hoped that the Senate could also pass the benefits bill, S. 1618. Therefore, votes can be expected throughout Thursday's and Friday's session of the Senate.
Mr. PRESSLER. Mr. President, I am voting for the farm bill. I support the freedom-to-farm concept. This is not a perfect farm bill, but I find it somewhat ironic that some of my colleagues are voting against it, yet, urging the President to sign it, and then going out and criticizing it. It would be better to improve it and to be constructive.

Our farmers need a farm bill passed now. Many of them have already gone to the fields in our Nation. In South Dakota, they are meeting with their bankers, making their plans. It is time for us to pass a farm bill.

Mr. President, for years, we have had all this regulation and paperwork in agriculture. I come from a farm. I am a farmer. Last year, deficiency payments were sent out to the farmers. Then the commodity prices were high enough that the deficiency payments were sent back to the Department of Agriculture. All this requires a great deal of paperwork, and it costs the taxpayers a lot.

I recommend Senator Lugar and the managers of the farm bill, and Senator Grassley and others, who have brought us a farm bill that will not only save taxpayers money, but will also help our Nation’s farmers and ranchers.

Mr. President, let me say that I think the most important farm bill besides this is a balanced budget because, if we have a balanced budget, we will be able to export our commodities and the commodity prices will be high enough that the inefficiency of a balanced budget will we have low interest rates and a stable dollar and high exports. That is what farmers and ranchers really want. They do not seek handouts. They want good prices on the world market. And they are there for us if we take advantage of it.

So there are many improvements we could make in this farm bill the next year or the year after. But let us pass it now. This is the best deal we can get at this time. If somebody had a better one, they should have brought it.

Mr. President, I ask unanimous consent to speak as if in morning business for 3 minutes for the purpose of introducing a bill.

Mr. PRESSLER (Mr. Lugar). Without objection, it is so ordered.

Mr. PRESSLER. I thank the Chair. (The remarks of Mr. PRESSLER pertaining to the introduction of S. 1647 are located in today’s Record under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. PRESSLER. Mr. President, I thank the Chair. I thank my colleague from Iowa and Indiana and congratulate both of them for their work on the farm bill which was very outstanding. I yield the floor.

Mr. GRASSLEY. Mr. President, first, just one sentence to compliment the new President, the Senator from Indiana for his leadership on getting the farm bill passed. I am going to speak tomorrow on the farm bill. This is an evening in morning business. I am speaking on the subject of the drug problem.

Mr. GRASSLEY. Mr. President, we have heard a great deal on this floor about the problem of drugs in this country. Senator HATCH, Senator Feinstein, Senator Moynihan, and others, have spoken eloquently about the personal and societal costs that we bear because of illegal drug use. Add in the abuse of legal drugs in this country and the costs are staggering.

The record of the harm done is clear. The facts accumulate in depressing fashion: damage done to individuals, to families, to communities, and to our civic life. Drugs destroy a person’s capacity to live a decent life. They contribute to a widening circle of hurt that goes far beyond any individual choice to use drugs.

Like a stone dropped into a pond, the ripples move outward in every widening circle. The result is an arc of pain and loss that is not a respecter of social position, education, age, race, or location. Nothing brought this home to me more forcefully than a letter I received recently from a constituent. A constituent whose family has borne the brunt of what illegal drug use truly means. We can pile up facts and figures. We have the numbing statistics. But these terrible numbers do not bring home to us the true meaning of what is involved. In order to understand the circle of hurt, let me share with you this story. As the dismaying figures on family violence, crime, and drug-addicted babies only too clearly show, this record is not unique.

Although it is not unique, it is, nevertheless, a story whose very prevalence is part of the harm done everyday by illegal drug use.

Kay Degrado of Marshalltown, IA, a community of 25,000, knows firsthand what the facts and figures mean. Some years ago, their son began experimenting with drugs at 9 and was an addict by 13. Nothing that these good people could do made a difference. They watched as their son slowly sank into addiction and a world of violence, drug dealing, and abuse. As with many families, they were unprepared to deal with the problems. Their son became an addict and a dealer.

At 26, during his second treatment episode, he met a 22-year-old prostitute and crack addict. They subsequently moved in together after they were expelled from the treatment program. In addition to living together, they also began dealing together. They had an 800 number, beepers, and a separate apartment to deal from. Sales helped them maintain a drug habit. This in a town of only 25,000. It was at this time that the couple learned that they were to have a baby, the woman’s second. The first child was raised in a drug-addicted household, with all the emotional scars that involves. The second child, Tomi, now four, suffered a worse fate. She was born addicted.

As the Degrado’s learned, drug use damages the unborn child in profound ways that endure for a lifetime. Their granddaughter, young Tomi, was born with multiple problems. She has difficulty sleeping. She is averse to being touched. She’s irritable and has a short attention span. In order to be able to function, she is dependent on a regimen of drugs, a common feature of drug-affected children. At four, she still must receive supplemental food and medication through a feeding tube in her abdomen. She is unable to use a spoon, lacking the coordination. Tomi’s parents have adopted the child—after years of effort—and can give Tomi a loving home. But they can never heal the hurt. And there are many Tomis in this country.

According to some estimates, as many as 100,000 or more such babies are born every year to addicted mothers. The disabilities are lifelong. Tomi requires constant medical attention. She is unable to use a spoon, lacking the coordination. She has learning disabilities that will affect her as long as she lives. But this is not the end of the story. As with Tomi’s parents, many addicts have more than just one child. These children are born addicted. Or they come into the world with disabilities. Physical and sexual abuse are common. Tomi has an older half-sister, and her mother is pregnant again.

Fortunately, the Degrados’ son is in treatment, again, after two suicide attempts and numerous detours. He visits his daughter but has not taken an active role in her life. It is still unclear if he will stay clean and sober. If he does, and I wish him well, it will come at great effort, one that will occupy him for the rest of his life.

And the cost? The monetary costs, of course, have been enormous. But that is only a small part of the expense. From the seemingly individual choice to use drugs, the harm that has been done spreads outward in everwidening arcs. That is the reality of drug use. The damage and harm are personal, immediate, and enduring.

Yet, what we hear from many of these days—from some of our cultural and political elite—is that we should legalize such drugs. That we should make
them widely available. The common argument is that we should not interfere with a personal choice. A choice which is, according to the argument, a victimless crime. No one is harmed. What a cruel and insensitive lie that is. No wonder so many decent people who the Degrados feel like the drunks, or its culture leaders, has taken leave of its senses.

And one finds the argument and its logical consequences increasingly prevalent. Recently, a member of my staff learned that a bookstore right here in the Washington area had a whole display on how to process your own drugs at home. The display was full of books on how to start your own drug business in the comfort of your living room. This in a store in a suburban shopping mall frequented by teenagers and families. This is reminiscent of the 1960’s. That was the last time we flirted with the ‘drugs-are-OK-for-everybody’ theme. But this is not the 1960’s and I had hoped that we had learned something from our past. Seemingly not. At least not some.

Turn on MTV or listen to much of the popular music these days and you get the drugs-are-OK message. First, leading political and cultural gurus openly discuss the idea of making drugs readily available at over-the-counter prices. Second, newspaper editors flit with the idea of legalization. Third, movies and TV shows are once again introducing drugs as okay into their plots. Fourth, many of our political leaders are sending confusing messages. So far, the most notable comment from the President on drug use was, “I didn’t inhale.” Just think of the unfortunate signal that sends, however inadvertent. And fifth, one of the most remembered policy recommendations from this administration was the call by the Surgeon General for legalization.

Lately we have William F. Buckley, Jr., repeating the legalization theme. And he is in good, or rather, bad company. Some newspapers, magazines, and a variety of pundits have picked up the theme. This does not mean, however, that this is an idea whose time has come. All of this fumigation over the virtues of drugs or the harm caused by preventing people from self-administering deadly substances, is limited to a few, if well-financed, individuals. But there is no comparable access to the media. A media that then broadcasts and enlarges on the theme, making it seem more influential than it really is. Unfortunately, this posturing encourages young people to dismiss not only the harm that drugs cause but to question whether it is wrong to use drugs. And so, the hurt goes on.

After years of decline, after years in which teenage attitudes toward drugs was moving in the right direction, we now see signs of a backlash drug use, heading back up. More disturbing, we see a decline in negative attitudes to drug use. We have not yet returned to the 1979 levels of abuse, but we have made notable gains in that direction. As recent studies show, an increasingly large percentage of high school kids now report frequent marijuana use. The age at which use is beginning is also dropping. Experts now recommend that we must begin our anti drug prevention message in grade school.

Meanwhile, the casualties mount. The most recent data, released by the drug czar’s office, confirm—as if more confirmation was necessary—that drug use is on the rise among our kids. This is particularly true of marijuana use. As we learned to our regret, marijuana is a gateway drug for further substance abuse. Heroin use is also on the rise. And much of the West and Middle West face a growing problem of methamphetamine use—the so-called workingman’s cocaine. This drug is responsible for dramatic increases in family violence, in violent crime, and in hospital emergencies. What the numbers tell us is a depressing story of continuing drug abuse. We are still dealing with an addict population created by the drugs-are-OK argument from the 1960’s and 1970’s. Our current hardcore addicts were the age of 15, 16, and 17 when the drugs were free. Now we are putting our 12, 13, and 14-year-olds at risk. We are mortgaging their futures and the lives of everyone they touch. We are exposing them to a cycle of hurt and suffering. I can imagine few more irresponsible acts. The last time we did it: unconsciously or by inattention. If we do this again, we can make no claim to innocence. We cannot appeal to our innocence. What we do now, we do with full knowledge. We simply cannot let this happen again.

I would like to ask my colleagues to look at my remarks from the standpoint of it portraying the problem of drugs that a family in Iowa had, the Kay and Jim Degrado family of Marshalltown, IA. It tells a story about how ear drug use leads to greater and greater problems. It talks about crack babies, and in the case of this family a crack grandchild that has been adopted by this family—the problems that families get into down the road of time in fasion; all the crime that comes from illicit drug use.

I compliment this family for sharing their story with me and the granting of permission to me to discuss this issue on the floor of the Senate.

THE TRICKLE DOWN DEFECT
Mr. GRASSLEY. Mr. President, I have had a number of things to say lately about leakage. I use the metaphor, I have mentioned these issues several times on this floor in the past few days. I wish to draw the attention of my colleagues to an example of what we face in clear leadership and guidance. It illustrates what we might call the trickle down defect. When there is uncertain leadership, when leaders are unclear on their true intent, their irresoluteness trickles down. Nowhere is this effect easier to detect than in this administration’s drug policy. From almost the first day of this administration there have been mixed signals and muddled directions about our drug policy. While the words have pointed in one direction, actions have been off in every direction. The only thing that has been constant has been inconsistency.

One of the best examples of that was the President’s move to fire most of the people in the drug czar’s office just a few days after his inauguration. That was not supported. The drug issue fell off the agenda. The President called “time out” in the war on drugs.

Lately, the administration is moving to restore personnel to the drug czar’s office. I am sure there is no connection between that move and the fact that this is an election year. Miraculously and suddenly, the President has learned what the American people have known all along. One of the most important tools in fighting drug abuse among kids is to provide consistent leadership. To have a consistent message. At one time, we had that. The most remembered phrase from the years before Mr. Clinton was “I just say no.” Unfortunately, we lost that message.

The most remembered phrase of this administration is, “I didn’t inhale.”

Today, a mixed and muddled message has trickled down through the bureaucracy. We have seen a falling off in effort. We have seen confused priorities. We have seen a decline in interagency coordination. We have not seen much in the way of leadership. What we have seen is rising drug abuse. And, this lack of consistency has consequences. The latest example comes from just the past few days. The Centers for Disease Control, a Federal agency based in Atlanta and paid for by the taxpayers, cosponsored a conference this past weekend. The conference was held under the innocent enough title of “harzuction.” Unfortunatly, that mild phrase conceals a bleak reality. Things are not always what they seem.

Many of the other cosponsors of the conference, such as the Drug Policy Foundation and the Lindesmith Center, are among the largest drug legalization lobbies in this country. The press release announcing the conference put out by the Drug Policy Foundation ends with a call, and I quote, “End the Drug War.” The stated goal of these organizations is to get drugs legalized. The CDC, perhaps unknowingly, have associated themselves with this position. A position that is supposedly directly opposite of the administration’s stated policy. What you have is a Government agency charged with dealing with controlling the epidemic—collaborating with those who want to legalize drugs, which would cause a major epidemic. This is a masquerade. But, it is clear that the CDC is confused about what our policy
is. Confused about their role in supporting that policy. But it should not come as a surprise.

Mixed up and muddled. Confused signals and uncertain direction. Actions that belie statements. This has been the recent legacy. No wonder people are confused.

When these things happen, who is responsible? Who do we look to? You have to look to the people who set the course. Remember that the CDC comes under the Public Health Service, which works for the Surgeon General. And who was our last Surgeon General? Joycelyn Elders. Recall that she was the one who sounded the call for legalization in the first days of the Clinton administration. There was never any meaningful response. Certainly the decimated Drug Czar’s office could mount no convincing reply. Unfortunately, Dr. Elders’ remarks remain fixed in public memory. Everyone remembers her, who remembers anything said by the Drug Czar? Or the President?

We have seen lately a born-again drug policy from the administration, the message is still unclear. Evidently, the CDC is still confused. But their confusion is no orphan.

When the message broadcast from the top is contradictory. When it is hedged with qualifiers. When the guidance is unclear, it should come as no surprise to find bungling at the bottom.

Here we have the Centers for Disease Control, part of our national effort to fight the war on drugs, lending its name and prestige against the war of drugs. The right hand of this administration does not know what the left hand is up to. Lack of leadership trickles down. Is it any wonder that teenage drug use is on the rise? Is it any wonder that kids are unclear on why it is both harmful and wrong to use drugs? When you do not know where you are going, is it any wonder that you get lost? The failure of leadership demands a high price.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, and pursuant to the provisions of Senate Resolution 234, in memory of a great Senator and devoted friend of so many of us, the late Senator Edmund S. Muskie of Maine, the Senate stands adjourned. Thereupon, the Senate, at 9:11 p.m., adjourned until Thursday, March 28, 1996, at 9 a.m.
Mr. SHUSTER. Mr. Speaker, I rise to pay tribute to William Mosebey who will receive, on Friday, March 29, 1996, the Central Intelligence Agency’s Distinguished Intelligence Medal from Director of Central Intelligence, John Deutch.

Bill Mosebey has served our country with distinction for 34 years in the faroost outposts of the cold war. In those years, he rose to the highest level in the Central Intelligence Agency’s clandestine service, but, more importantly he became a legend. Not since Chinese Gordon defended the gates of Khatroum has there been an intelligence officer who, with a wry sense of humor, and a brilliant mind he managed and executed the most difficult of clandestine operations, fulfilling every objective set out for him. He served as a chief of station in four countries. In each of them, he spent his share of time recruiting and managing wellplaced human penetrations.

His arrival in any post was a sure signal that the country was high on our President’s priority list. His foes across the stark lines of the cold war knew that they were facing the ultimate professional—one who stands in the intelligence hall of fame with men like Richard Helms and Alan Dulles. At the same time, there was always time for a visit to the Bundu to add a new trophy to his wall.

Bill Mosebey is one of the unsung heroes of our great victory over Marxism, but there is also another unsung hero and that is his wife Carolyn. In Bill’s own words:

Whatever contribution I was able to make to our national effort over the years of the cold war and after was sustained by the fact that I was married to a sensitive and supportive wife who, without question, would go anywhere and do anything the job demanded. As far as I am concerned she is stamped ‘keep forever’ (an old KGB classification).

In Washington, a place that always made him long for the bush, he set an example for young officers. Never was there a time when he didn’t have a moment to walk a new recruit through the intricacies of running a spy. Always ready to open his home to a homecooked meal from Carolyn’s kitchen, he would entertain into the night with stories and laughter, but one came away from these evenings knowing that they had been in the presence of one of the great ones.

Mr. Speaker, Bill Mosebey is the Central Intelligence Agency’s ‘Riley Ace of Spies.’ We owe him our gratitude and should shower him with our thanks. But knowing Bill, who has returned to his roots as a farmer in central Pennsylvania, he will be happy if the Sun shines, if it rains after the spring planting, and the hunting remains good this fall. But, he should also be pleased knowing that he left the Central Intelligence Agency with honor, with a distinguished record, and my enduring respect, along with those in the intelligence community, for a job well done.

Ray Dorsey was born in Los Angeles, graduated from Redlands High School, and attended San Bernardino Valley College and the University of Redlands. He began his career in July 1967, when he was appointed deputy sheriff and assigned to the Glen Helen Rehabilitation Center. After serving his first patrol assignment at the Yucaipa Station, Ray was promoted to detective, his first of many promotions, and returned to the specialized detective division in 1971 where his responsibilities included crimes against property and homicide investigations.

With his promotion to sergeant in 1973, Ray returned to the Yucaipa Station and assumed his duties as the second-in-command. His promotion to the rank of lieutenant in 1977 was closely followed by his promotion to captain in 1980, where he was given the responsibility of commanding the Sheriff’s Specialized Detective Division. Three years later, he was promoted by Sheriff Floyd Tidwell to deputy chief of staff, which gave him responsibility over the next 4 years for the Sheriff’s specialized detective divisions, including corrections, training, records, crime laboratory, and identification. In 1991, Ray was appointed undersheriff and given wide responsibility for the overall operations of the department. He has served in this position under the leadership of both Sheriff Dick Williams and Sheriff Gary Penrod.

Mr. Speaker, I ask that you join me, our colleagues, as well as Ray Dorsey’s family and many friends, in recognizing the selfless achievements of this remarkable man. Ray has given his professional life to the San Bernardino County Sheriff’s Department and has served the citizens of San Bernardino County well for almost 30 years. It is only appropriate that the House recognize the service of this extraordinary man as he begins his well deserved retirement.
to benefit from developing friendly and good-neighborly relations. Turkey and Greece have to overcome the cycle of conflict into which they have been locked. The failure to settle the disputes will create an environment conducive to the eruption of new crises. This vicious circle must be broken at some point. The leaders of both countries are faced with the historic responsibility to establish a climate of mutual confidence, to give a new structure to their bilateral relations which would free of problems, and thus open a new chapter in the Turkish-Greek relations. Turkey is ready and determined to do her utmost in that regard. I believe the leaders also have the necessary political will to live up to this historic responsibility.

The current problems between the two countries must be taken up with a new and realistic approach. By isolating them from the emotions stemming from history and the chains imposed by short-term temporary considerations, our ultimate goal should be to bring comprehensive and lasting solutions to all the differences and problems between the two sides, especially those related to the Aegean Sea. Hence, the status quo in the Aegean will only be viable and lasting if it is built on the fundamental rights and legitimate interests of both countries. For that matter, we must discuss one another's differences on the basis of mutual respect and with a willingness to reach a compromise.

Turkey is a law-abiding country. In keeping with international law, she has always respected the territorial integrity and the inviolability of borders of all her neighbors, including Greece. In a similar vein, Turkey harbors no intention to alter the status quo in the Aegean through unilateral steps and to make gains by de facto actions. An essential aspect of Turkey's position is respect for the status quo in the Aegean which was established through international agreements. These are the basic principles defining Turkey's approach to both her relations with Greece and the matters related to the Aegean. We have the right to expect Greece to display the same understanding and approach. If Greece also adopts these principles, it will be much easier to reach mutually acceptable solutions than is generally thought. In this spirit, Turkey is ready to sit down to negotiations with Greece in order to settle the Aegean issues based on international law, the principles of equity and respect for the status quo and a comprehensive approach to the settlement of all issues.

I am therefore calling on Greece to enter into negotiations without preconditions with a view to settling all the Aegean questions as a whole.

The search for a comprehensive and last- ing solution will be conducted on the basis of respect for international law and the international agreements establishing the status quo in the Aegean. The process of settlement may only begin after the period of preparation.

When it comes to peaceful means of settlement which would be appropriate to the special nature of the Aegean questions, Turkey would make use of every peaceful and non-aggressive means of settlement. The form, conditions and legal requirements of such methods can be taken up in detail in the course of the talks.

The aim of such a peace process would be to resolve the differences that emerged after the historic compromise brought about by Ataturk and Venizelos. It is, therefore, the two sides' joint responsibility to rise to the occasion and take utmost care to avoid being tempted by petty political gains and a dangerous opportunism, if the peace process is to succeed.

Concurrently with the initiation of a process of peaceful settlement aimed at bringing a comprehensive and lasting solution to the Aegean disputes, Turkey is also ready to start talks on the conclusion of a comprehensive and lasting document containing the basic principles that will govern the relations between the two countries or an agreement of friendship and cooperation. Such a step will not exclude from the beginning any method of settlement including third party arbitration. This will make an integral part of a comprehensive framework strengthening the peace and stability in our region. Similarly, bringing a comprehensive solution to the Aegean questions will also contribute to the settlement of other questions in eastern Mediterranean on their own merits and within the parameters of their own criteria. Our Greek friends frequently say, "actions speak louder than words." I, therefore, propose action, not words.

I sincerely hope that Greece will give due consideration to our call for a peaceful settlement based on international law and the principles of equity and respect for the status quo.

Likewise, simultaneously with this process, I also propose to start talks in this transitional period with a view to bringing about a swift agreement between the two countries on a comprehensive set of confidence building measures related to military activities.

Once the process of peaceful settlement is thus initiated, the two sides will naturally have to avoid unilateral steps and actions that could increase tension.

I am proposing to Greece to engage in a comprehensive process of peaceful settlement that will be conducted from the beginning any method of settlement including third party arbitration. This will make an integral part of a comprehensive framework strengthening the peace and stability in our region. Similarly, bringing a comprehensive solution to the Aegean questions will also contribute to the settlement of other questions in eastern Mediterranean on their own merits and within the parameters of their own criteria. As our Greek friends say, "actions speak louder than words." I, therefore, propose action, not words.

I am sure that our two nations living across each other, having been valuable shores of the Aegean do not want tension between them. They do not want mutual enmity. What they do want is peace, friendship and cooperation. I believe that if they are not isolated with deep roots in history, the Turkish and Greek peoples deserve them.

The late President Turgut Ozal, in a speech during a 1985 visit to the United States, stressed the need for such a compromise and said that we owed this to the future generation. I believe that we owe this not only to the future generations, but also to the present generation. History never forgives those who shrink from their responsibility.

TRIBUTE TO 100TH ANNIVERSARY OF APOLLO CLUB MALE CHORUS OF MINNEAPOLIS, MINNESOTA

HON. JIM RAMSTAD
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. RAMSTAD. Mr. Speaker, I rise today to bring attention to the prestigious history and legacy of excellence for more than a century of the Apollo Club Male Chorus of Minneapolis, MN.

Just last year, the Apollo Club celebrated 100 years of truly superior musical performances. This marvelous chorus of amateur musicians exemplifies the spirit that makes our country great—friends from all walks of life, gathering outside of their daily and professional lives to fashion a powerful bond made possible only by a common, shared goal in which the group takes precedence over the individual.

The members of the Apollo Chorus have proven for more than 100 years what can be accomplished through a strong work ethic, teamwork and a commitment to excellence.

The chorus has sung the works of history's greatest composers—Bach, Beethoven, Mozart—all around our great Nation as well as overseas, to audiences with its unique, full, and mellow sounds.

Mr. Speaker, from its birthplace at the home of Col. Charles McC. Reeve on the south shore of Lake Harriet in Minneapolis, the chorus has graced a global stage over the years which has included performances at President Eisenhower's inaugural in 1957, the World's Fair in Brussels in 1958, the memorial atop the sunken Battleship Arizona at the Pearl Harbor commemorative ceremony in 1985 and international festivals from Wales to Nancy, France.

Among its many awards and honors, the Apollo Male Chorus won second place at the renowned Eisteddfod Choral Festival in 1982. But despite the chorus' success in musical competition, the Apollo Club's real focus has been on moving people with their special music, and educating audiences about the choral style they practice so eloquently.

Mr. Speaker, the members of the Apollo Chorus through the years have been true pion- eers of choral song. Audiences swing and sing to the Apollo's international collection of rhythms.

In Greek mythology, Apollo stood for clarity, order, and harmony. In a world that too often leaves us stunned because of its chaos and discord, the Apollo Club delivers a much-needed message of peace and togetherness. Today we thank all the club’s singers, leaders, officers, and special musical guests for their gift of beautiful music and extraordinary harmonies.

Today, we salute the Apollo Club Male Chorus of Minneapolis for a century of wonderful entertainment and we honor this outstanding group for the joy its members have brought to our lives. The people of Minnesota are proud of the Apollo Club Male Chorus, and we wish them many more years of success.
NEW DELHI.—After four resignations this week and the number of senior Government ministers who have quit since the start of the year in a corruption scandal, Prime Minister P. V. Narasimha Rao told a rally of his governing Congress Party not to worry about the general election expected in April or May.

"The Congress is certain to lead the country," Mr. Rao said in a gathering on the party's youth wing in Guwahati, the capital of the northeastern state of Assam. Indians were left to wonder whether Mr. Rao was bravado or displaying the canny political instincts for which he is renowned.

In the midst of a scandal that many Indian commentators have described as the worst since independence, few discount the possibility that Mr. Rao may yet turn the situation to his advantage.

Opinion surveys have suggested that the Congress Party, which has governed India for all but four years since 1947, has been heading for a minority. Political conjecture focused less on whether the Congress would lose its majority in the 535-seat Parliament than whether it would muster enough seats to lead a coalition.

Many analysts forecast a breakthrough for the main opposition group, the Bharatiya Janata Party, whose brand of Hindu nationalism has troubled many Indians attached to the country's secular political tradition.

The Congress Party's woes were frequently blamed on Mr. Rao, now 74, and an unorthodox stump campaigner and beset with what many Indians have said is a near-fatal liability in a Congress leader: a lack of the popular appeal associated with the Nehru-Gandhi political dynasty.

Then came the corruption scandal, involving widespread bribes and kickbacks for Government contracts in a country where nearly half of all officially recorded economic activity is carried out by state-owned industries.

In addition to losing seven ministers, Mr. Rao has been faced with a welter of accusations that he was a beneficiary of some of the payoffs, including a transaction in 1991 in which the accuser says Mr. Rao took $30 million, the equivalent of $1.7 million, in return for steel contracts.

Yet throughout the week that the scandal has been growing, Mr. Rao has remained publically silent.

Aides say the Indian leader believes that the payoff disclosures could be the savings of the Congress Party at the polls because they could lose its majority in the Parliament.

There has been widespread debate over whether Mr. Rao kept the lid on the scandal until shortly before the election so as to be able to use the indictments against opponents—and allies whose loyalty he doubted—or whether procedure from the Supreme Court forced his hand.

In any case, many Indians say the scandal has reached proportions that will lead to a far-reaching political reckoning.

Previous scandals have subsided without a major shake-up in the political establishment. But this time, many commentators predict, the involvement of the Supreme Court will make it hard to contain the fallout.

"It will not fizzle out," said Rajinder Puri in The Times of India. "The process of destabilizing a rotten, corrupt, repressive and anti-people system will continue until reforms and a new system takes its place."

DETERRING HUMAN RIGHTS IN CAMBODIA
SPEECH OF
HON. STEPHEN HORN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 26, 1996

Mr. HORN. Mr. Speaker, the recent appalling murder of Haing S. Ngor has refocused the world's attention on the horrors suffered by the Cambodian people at the hands of Khmer Rouge. Mr. Ngor worked tirelessly to remind us that human rights tragedies were still occurring in his native country. We must continue his work.

I strongly support House Resolution 345 expressing concern about the deterioration of human rights in Cambodia. Our Government must support efforts to establish a strong, free society there—and rally other nations to join us. Anything less would dishonor Mr. Ngor and the 1 million Cambodians who have died at the hands of tyranny over the last two decades.

ANSWERING AMERICA'S CALL
HON. PAT ROBERTS
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. ROBERTS. Mr. Speaker, I submit the following script written by Mr. Bradley Aareheart, State winner of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary Voice of Democracy broadcast speaking contest.

Mr. Roberts is a senior at Emporia High School in Emporia, KS and plans a career in medicine or politics. He was sponsored by the VFW Post 180 in Emporia.

The contest theme this year was “Answering America’s Call.” Bradley has done a wonderful job of capturing the idea that each of us has toward our fellow Americans and toward our future generations. I encourage each one of my colleagues to read Bradley’s message and take his suggestions to heart.

ANSWERING AMERICA'S CALL

It’s 2:00 in the morning and a lady clutches her heart as if struck! A heart attack! She staggers to the phone and frantically dials the numbers 9-1-1. The police dispatcher’s voice comes across clearly but in a lethargic sounding tone. The lady, gasping, screams, “Help me! Help me! I’ve had a heart attack! Get someone out here!” “Wait right there; I’m going to put you on hold,” is the dispatcher’s reply as she picks up another line. A frantic call, put on hold by an apathetic operator. Important? Yes, and that call is not unlike the call being made today. A call of far greater importance to everyone in the United States. That call is America’s plea for the future; we have several options as we hear that call. We can answer immediately, ignore it, or just like the apathetic operator, put it on hold. However, in my mind, we have only one clear option. If we are to be responsible, caring citizens, we must answer America’s call.

Former Secretary of State Cordell Hull said, “I am certain that however great the hardships and the trials which loom ahead, our America will endure and the cause of human freedom will triumph.” How truly this reflects the time since the foundation of our nation. In the 1700’s America sounded a call for freedom from oppression so brave Americans answered this call and signed the Declaration of Independence. The early part of this century saw America facing the perils of the depression and Franklin Roosevelt rose to meet the call by instilling hope and providing employment. In 1941, when the Japanese bombed our ships in Pearl Harbor, courageous Americans answered the call to arms and continued to fight until the Japane"
met their country's call. But if what these calls had been left unanswered or put on hold? What would become of them? And more importantly, what would become of our country? I'm sure this half-heartedly, and we haven't been. We confront situations like a raging bull who has his eyes fixed only on the matador. And that's how things get done--by doing what's in the best interest of America. Why is this? Because of patriotic citizens and leaders who see a light at the end of the tunnel. America will continue to answer the call because of compassion, pride, and love of country.

I am a youth of today, but a leader of tomorrow. I face certain responsibilities: the responsibility of speaking up for what's right, for justice, and a willingness to fight for my country.

But currently, America's call is for the future. A call that is widespread and impossible to ignore. It's a call to return to basic values and truths that have always made America so great. The call is for safer streets, moral integrity, and family values.

Former president Dwight Eisenhower said that "the problems of America are the family problems multiplied a million-fold." And isn't that evident in today's society? As tomorrow's generation must answer the call to become responsible, moral, intelligent, and patriotic citizens. The ideals of life, liberty, and the pursuit of happiness are not just empty words, and must be stressed for all citizens. We cannot accept the attitude "It doesn't matter how I act; I'm just one person." Instead, we must share the feelings of so many Americans who say, "I love my country; I sincerely care about its future." That attitude must now direct all of us. There's an African proverb that says "It takes an entire village to raise a child." The time has come for all of us in the village to accept responsibilities. You see, we can meet needs and become catalysts for change. America's future demands the commitment of everyone to not only hear, but also answer America's call. Whether it be a call to arms or a call to peace.

Today's call is not an emergency 911 situation because America maintains her greatness at home and abroad. Our commitment must be to maintain that greatness and preserve our freedoms and liberties for future generations. I want to make sure that America is never like the woman making the 911 call, who said, "There was nothing we could do; she ignored. When my generation answers the call to become responsible citizens, we will be there to be counted. I promise my contributions to better education and voting rights for change. America's future demands the commitment of everyone to not only hear, but also answer America's call. Whether it be a call to arms or a call to peace.

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Answering America's Call

HON. ROBERT E. WISE, JR.
OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. WISE. Mr. Speaker, I would like to introduce a script written by Nancy Shirley, a constituent from Berkeley Springs, WV. This script was West Virginia's winning entry into the Veterans of Foreign Wars—Voice of Democracy broadcast scriptwriting contest.

John's script stresses the importance of both cooperating and making unselfish, individual contributions in determining how well the ideals that make America work for all of us. I encourage my colleagues to keep

Answering America's call

HON. ROBERT E. WISE, JR.
OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

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27 years. It is only appropriate that the House recognize Assistant Sheriff Bradford today as he begins his well deserved retirement.

PENSIONS

HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 27, 1996 into the CONGRESSIONAL RECORD.

PENSION PLANS: SAVING FOR A SECURE RETIREMENT

I am impressed by how many constituents stress the importance of working toward a good pension and a comfortable retirement. They put in many long hours to pay the bills and put their kids through school. They emphasize the value of hard work and sacrifice, and believe that a life of hard work should be rewarded with a secure retirement.

Many, however, are increasingly concerned about the outlook for their retirements. They find themselves working harder, often at more than one job, but can’t seem to find the money to put away for retirement. In the past, America relied on their employer to guarantee a pension, but the trend in recent years has been toward employers providing pension benefits. The federal government insures and regulates defined benefit plans, while the remaining 61% are covered by a defined benefit plan. Today 401(k) plans, for example, hold $550 billion in assets for 22 million employees, and these plans continue to grow. These plans, however, are not federally insured. Also, recent news reports have shown a number of these plans to be susceptible to fraud. Investment decisions and risks lie with employees. Consequently, more responsibility is placed on employees to know what options they have, to invest their contributions wisely, and to monitor the management of their funds.

POSSIBLE REFORMS

Congress can take steps to protect pension plans. First, Congress should block efforts to let employers withdraw money from currently overfunded pension plans. Current law allows companies to use assets from overfunded pension plans only for retiree health benefits. Speaker Gingrich favors a change in the law to permit companies to raid surplus pension assets for other business purposes. I strongly oppose this proposal.

Second, Congress should consider ways to ease the regulatory burden on pension plans. Moreover, companies, particularly small businesses, are not always able to provide pension plans for their employees. Tax incentives and simplified, uniform regulations for employers who offer plans can do much to offer American workers some security in their retirement.

Third, we should look for ways to make pension plans more portable. As workers move from job to job, it is important that they be able to carry their contributions with them. Defined contribution plans offer workers this option, and because of the growth in such plans over the last 10 years, employers may well have become more portable. Defined benefit plans are less portable than contribution plans because employers want to encourage their employees to stay with them. When employees do leave, they should be encouraged to roll over their contributions into an IRA rather than cash out their contributions.

Fourth, we must look at ways to further protect the assets which workers invest in 401(k)’s and other contribution plans, particularly given their recent enormous growth. The Labor Department has proposed several reforms, such as shortening the time an employer has to deposit employee contributions into an IRA, requiring a 30-day period and encouraging employers to offer workers general investment information so that employers can better monitor their own plans.

CONCLUSION

Americans understand that planning for the future is crucial, and the sooner they start to save the better. It has become increasingly difficult, however, for workers to set aside a portion of their salaries for retirement.

Congress should consider measures to protect the integrity of the private pension system. As I have already done, and encourage businesses to expand coverage to those without a pension plan. I have co-sponsored a bill that would create a federal commission to study the pension issue and develop proposals to increase participation in pension plans and provide more protection for pension assets.

JOB CORPS IMPROVEMENT ACT OF 1996

HON. BOB FRANKS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing legislation to make the Job Corps safer for program participants and more cost-effective for taxpayers.

I support the Job Corps and its important mission. But for too long, Congress has tolerated too much waste, fraud, and inefficiency in this program. The American taxpayer wants more accountability, and the young people that the Job Corps serves need to better prepare themselves for an increasingly competitive job market. My legislation targets these two goals.

Job Corps was created more than three decades ago as part of President Lyndon Johnson’s war on poverty. Presently, it is funded at over $1 billion a year, and it is the largest job training program for disadvantaged youth between the ages of 15 and 24.

In 1994, a survey of Job Corps students showed that 68 percent of enrollees had two or more barriers to employment, including not having a high school diploma, lacking basic work skills, or facing limited English proficiency. The program currently serves over 60,000 young adults in 46 States.

The original idea behind Job Corps was to give disadvantaged youths a hand up in order to avoid a lifetime of hand-outs. But as times have changed, so have the problems facing Job Corps students.

And in too many instances the Federal Government has been too slow in adopting policies to adjust to changing times. Today many Job Corps students come from one parent homes in communities ravaged by crime, drugs, and violence—problems whose proportions could scarcely be imagined a generation ago.

In order to maintain an environment within which young people can learn, the centerpiece of my bill institutes a zero tolerance policy for drugs, alcohol abuse, and violence in the Job Corps. I know the Job Corps bureaucracy has recently made strides in combating these scourges. But because violence, alcohol abuse and drugs are anathema to a productive, drug-free job environment, Job Corps students deserve a guarantee in law that these centers can be a sanctuary where students can live and learn without fear. My bill ensures that those who enter the Job Corps in order to learn can do so, and those who enter the program without that commitment will be weeded out, thus protecting those who are intent to learn new job skills.

My bill also contains a provision requiring the Department of Labor to undertake an in-depth, comprehensive review of the entire Job Corps program. The purpose of this review would be to ascertain what the Job Corps does well and where further improvement is needed. Such a review has not taken place since 1982, and hard data on how well the
Job Corps is fulfilling its mission is largely unknown. For example, the Department of Labor estimates that the overall job placement rate for Job Corps graduates is 70 percent, but some centers have had rates as low as 20 percent for 5 consecutive years. Furthermore, a recent General Accounting Office study found that fully 15 percent of Job Corps’ job placement verification procedures were invalid. That means that some Job Corps centers were reporting that their graduates were finding jobs, when in fact they were not.

Referring to evidence, the comprehensive Job Corps review called for under my legislation is closely related to the performance of this program by collecting anecdotal evidence. The comprehensive Job Corps review called for under my legislation is closely related to the performance of this program by collecting anecdotal evidence. The comprehensive Job Corps review called for under my legislation is closely related to the performance of this program by collecting anecdotal evidence.

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Mr. Speaker, 35 years ago President John F. Kennedy had a dream. He wanted to share America’s idealism and know-how with other nations, not just through governmental and training-related jobs pay 25 percent, or over $180 million is spent on administrative expenses. This program serves a dream that will allow us to make informed judgments about how best to improve and strengthen this important job training program.

My bill also limits the spending on the Job Corps bureaucracy to 13 percent. Currently 18 percent, or over $180 million is spent on administrative expenses. That figure is too high, and indicates that efficiencies can be made within the bureaucracy to reduce costs. I want more money spent on students, not on bureaucrats. My bill would force the Department of Labor to examine Job Corps’ overhead rates and help to eliminate waste. Today, there are 109 Job Corps centers throughout the country. In an effort to upgrade the performance of each of them, my bill would eliminate the 10 worst Job Corps centers in the Nation by the end of the century. At some Job Corps centers, the buildings and living quarters are in disrepair, the management is inept, the training that students receive is ineffective, and worst of all, violence and drugs are prevalent. Those centers need to be cleaned up or closed down, so the funds saved can be re-directed to productive, well-run centers.

Job Corps is the most expensive Federal youth employment and training program. Despite the fact that Congress is consolidating nearly 100 education and training programs into State block grants, funds for Job Corps are actually slated to increase. The reason Congress has retained this program is because it has demonstrated some meaningful success. Many people are unaware that Job Corps students who do complete their training are five times more likely to get a training-related job than those who do not. As a result of this, the program is saving money for the Government.

The Peace Corps is a dream that fortunately wasn’t too long ago that I submitted a statement. In my opinion, President Lee is the perfect man to lead Taiwan to even greater achievements in the future. I congratulate the people of the Republic of China on Taiwan on their presidential election.

HON. ROBERT A. UNDERWOOD

IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. UNDERWOOD. Mr. Speaker, the island of Guam lost one of its proudest public servants last Friday night March 22. Guam Police Col. Benjamin Franklin Aguon Leon Guerrero, a man who dedicated half his life in service to the people of Guam through the police department, was stricken by a heart attack which caused his untimely death. He was only 44 years of age.

Col. Leon Guerrero, a close personal friend, worked through the ranks at the Guam Police Department starting out as a patrol officer. Prior to joining the police force, I vividly remember him as a school aide working under my supervision at George Washington High School in Mangilao. Since then, I eagerly watched his rise in the ranks while taking upon various tasks for the department of public safety, the department of corrections, and the Guam Police Department. He went on to become the most senior ranking classified officer in the Guam police force. He was later appointed to be the deputy chief of the Guam Police Department.

I must also make special mention that he was a published poet and a graduate of the 156th session of the Federal Bureau of Investigation [FBI] National Academy. In fact, it wasn’t too long ago that I submitted a statement in the CONGRESSIONAL RECORD commending him for having been the first president of the FBI National Academy Hawaii Chapter to hail from outside the State’s confines.

His more than 20 years of public service yielded him a collection of awards and decorations. They include the J. Edgar Hoover Medal for Distinguished Public Service, the Guam Police Commission Service Award, the Guam Police Distinguished Service Medal, the Commanding Officer’s Citation, and the Exception Performance Award. He is also listed...

The late Col. Leon Guerrero left a legacy of service and devotion to the island of Guam, to its people and to the United States as a whole. He is remembered my many as a mentor, an adviser, and a great man sensitive to the needs of the police department, but the whole island of Guam.

His passing is a great loss and his presence will surely be missed. On behalf of the people of Guam, I offer my condolences and join his widow, Julie, and their children: Benjamin Franklin, Jr., Peter James, Ray, Sheena Marie, and Lolana Evette, in mourning the loss of a husband, a father, a very dear friend, and fellow servant to the people of Guam.

TRIBUTE TO G.W. CARVER MIDDLE SCHOOL

HON. CARRIE P. MEEK OF FLORIDA IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MEEK of Florida, Mr. Speaker, it is my great pleasure to pay tribute to the staff and students at George Washington Carver Middle School upon their recent award as a Blue Ribbon School of Excellence.

Through strong support from the school district and the regional office, through progressive leadership, committed teachers and counselors, with a clear mission, dedicated students and very involved parents, George Washington Carver has become the only middle school in Dade County to receive the Blue Ribbon of Excellence Award from the U.S. Department of Education.

G.W. Carver Middle School Center for International Studies is the only public middle school to be recognized and accredited by the Governments of France, Spain and Germany. Some of Carver's teachers and textbooks have been provided through the Governments of France and Spain.

Carver Middle School is a magnet school for international studies whose curriculum models the European system of studies, and students' tests scores are among the highest in all standardized tests. It has the highest attendance among Dade County schools, and exemplifies how school violence can virtually be eliminated.

Before 1970, Carver was the pride of the Coconut Grove black community, however, by 1986 plans were being considered to close the school because of dwindling enrollment. Now, 10 years later, it is a source of pride for the community and an example for all of us to follow.

For your superlative educational efforts, I salute you.

UNITED STATES-ORIGIN MILITARY EQUIPMENT IN TURKEY

HON. LEE H. HAMILTON OF INDIANA IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on September 8, 1995, I wrote to Secretary of State Christopher, asking several questions about the use and possible misuse of United States-origin military equipment by Turkey. This letter was a followup to an exchange of letters on the same issue earlier in the year, which I inserted in the RECORD at that time.

I have now received a response from the State Department, my September letter which sets out the administration's position on the human rights situation in Turkey and its relationship to the issue of U.S.-supplied military equipment in the country.

Since I believe that other Members will find the administration's views informative and useful in their own approach to this important issue, I would like to insert both my letter and the administration's response in the RECORD.

DEPARTMENT OF STATE, Washington, February 29, 1996

HON. LEE HAMILTON, U.S. House of Representatives.

DEAR MR. HAMILTON: This is a follow-up reply to your letter of September 8, 1995, to Secretary Christopher about human rights in Turkey. As stated in our November 1, 1995 interim response, you raised a number of serious concerns in your letter. Thank you for your understanding in allowing us time to prepare this reply.

In your letter, you state that human rights abuses in Turkey are a matter of real concern to the United States. We appreciate your interest and that of your colleagues in these issues. Congressional hearings, reports, and statements are a valuable way for the U.S. government to indicate concern about human rights in Turkey.

As we consider how best to pursue our objectives in Turkey, it is important to understand and just what Turkey is up against. The Kurdistan Workers' Party (PKK) has stated that its primary goal is to create a separate Kurdish state in part of what is now Turkey. In the course of its operations, the PKK has frequently targeted Turkish civilians. It has not hesitated to attack Western-including American-interests.

The Turkish government has the right to defend itself militarily from this terrorist threat. The Turkish military has said it seeks to distinguish PKK members and ordinary Kurdish citizens in its operations. We remain concerned, nevertheless, about the manner in which some operations have been executed. As we have documented in our annual human rights reports and in the special report we submitted to Congress last June on the situation in the southeast, these operations have resulted in civilian deaths, village evacuations and burnings.

You ask what the U.S. is doing about information that PKK defense articles may have been used by Turkey's military against civilians during the course of operations against the PKK. We discussed those issues at length at a hearing on Allegations of Human Rights Abuses by the Turkish Military and the Situation in Cyprus.

These reports trouble us deeply. We have frequently cautioned the Turkish government to exercise care that its legitimate military operations avoid targeting civilians and non-combatants. We have told the Turks on numerous occasions that, in accordance with both the Foreign Assistance and Arms Export Control Acts, human rights considerations will continue to be very carefully weighed in considering whether or not to approve transfers and sales of military equipment.

With regard to death squad activities in the southeast, as we stated in our report last June, we have found reports of government involvement in these incidents to be credible. Others have also been involved. In this regard, a number of Turkish “Hizbulah” terrorists are now on trial for alleged involvement in “mystery killings.” According to Turkey's prestigious Human Rights Foundation, these sorts of killings were down sharply in 1995.

We have told the Turks repeatedly that we do not believe a solely military solution will end the problems in the southeast. We have told the Turks repeatedly that we do not believe a solely military solution will end the problems in the southeast. We urge them to explore political and social solutions which are more likely to succeed over time. These should include fully equal rights—among their cultural and linguistic rights—for all of Turkey's citizens including the Kurds.

In the course of its operations, the PKK has not hesitated to attack Western-including American-interests. As a result of this revision, over 130 soldiers, civilians, and members of the diplomatic community had been killed in PKK operations in the southeast, as we stated in our report last June. We have been encouraged by indications that the PKK has altered its tactics.

In the long run, an improved dialog between the government and Kurdish representatives is needed to bring a lasting solution to the problems in the southeast. We urge the Turks to engage other legitimate interlocutors with whom the government could discuss Kurdish concerns. Although the Pro-Kurdish People's Democracy Party (HADEP) felt substantially shortchanged by the nationalist vote required to take seats in the Turkish Grand National Assembly, the party campaigned well and carried a large number of votes in the southeast. In addition, other parties, politicians, academics, businesspeople, and journalists also raised Kurdish concerns during the recent election campaign.

These developments are positive, and there are other signs that our active engagement with the Turkish authorities is bearing fruit. In September, the Turks announced that they will begin meeting with success. The constitutional amendments enacted this past summer broadened political participation in several ways, including by enfranchising voters over eighteen and those residing outside of Turkey. There is also a move to devolve more authority from the central government to the provincial authorities. And, on October 7, the President of the Turkish government—under encouragement from the U.S. and Europe—amended Article 8 of the Anti-Terror Law, which had been used to strip Kurds of their rights. This was undoubtedly a significant step forward. As a result of this revision, over 130 people were released from prison and many pending cases are being dropped.

Officials will be watching closely Kurdish human rights developments in Turkey. Our observations on Turkish human
rights are the result of a constant, energetic effort by our Embassy and others in our government to stay informed. Our officials meet regularly with elected officials in the Turkish Administration and Parliament. We also speak frequently with critics of the government— including Turkish and international NGOs, bar and medical associations, lawyers, and other human rights activists. U.S. officials travel to the Southeast periodically where they see government officials and the affected parties.

We will also continue to encourage change by supporting those who are committed to human rights and democratic reforms, including Turkish NGOs. This is a long-term effort that will require continued engagement. The important point to keep in the forefront is that the real impetus behind democratic change in Turkey must come from Turkish citizens themselves. Our objective must be to give them all the constructive help we can.

I hope this information is useful. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

What precisely are you doing about these reports?

Is it the U.S. policy, for example, to tell the Turks when we see reports of the destruction of villages or the killing of civilians, that we do not like it and cannot tolerate such abuses in the use of U.S.-supplied equipment?

What is the U.S. strategy to insure that such practices end?

Second, I have further questions regarding a related aspect of U.S. policy toward Turkey—resolution of the Kurdish issue in southeast Turkey.

There is considerable sympathy in Congress for the plight of the Kurdish population in Turkey, although none for terrorist acts by the Kurdish Worker's Party (PKK). I do not know of any Member support for Kurdish separatism or the break up of Turkey, but there is strong support for full equality of rights, including cultural and linguistic rights, for all Turkish citizens, including the Kurds. Members are troubled by the Turkish government's dominant reliance on force to put down the insurrection in the southeast, and would like to see the United States take a more active role in promoting negotiations among a broad base of Turkish citizens to end the violence.
SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 28, 1996, may be found in the Daily Digest of today's Record.

MEETINGS SCHEDULED

MARCH 29

9:30 a.m.  Armed Services
Airland Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Army modernization programs.

11:00 a.m.  Armed Services
Strategic Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on cooperative threat reduction program, arms control, and chemical demilitarization.

1:00 p.m.  Appropriations
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.

APRIL 17

9:30 a.m.  Rules and Administration
To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.

APRIL 18

1:30 p.m.  Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Air Force programs.

2:00 p.m.  Appropriations
Judiciary
Administrative Oversight and the Courts Subcommittee
Business meeting, to mark up S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.

1:00 a.m.  Appropriations
Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

1:30 p.m.  Appropriations
Indian Affairs
To resume hearings to examine Spectrum's use and management.

1:30 p.m.  Appropriations
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

APRIL 19

MAY 1

APRIL 23

9:30 a.m.  Appropriations
Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.

10:00 a.m.  Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.

APRIL 25

9:00 a.m.  Appropriations
Indian Affairs
To hold hearings on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.

1:30 p.m.  Appropriations
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.

SEPTEMBER 17

9:30 a.m.  Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.

CANCELLATIONS

MARCH 28

10:30 a.m.  Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Justice.

2:00 p.m.  Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Commerce.
HIGHLIGHTS

Senate agreed to Line-Item Veto Conference Report.

Chamber Action

Routine Proceedings, pages S2907-S3036

Measures Introduced: Two bills and four resolutions were introduced, as follows: S. 1646-1647, S. Res. 233-235, and S. Con. Res. 49. Pages S3018-19

Measures Reported: Reports were made as follows:
- S. 699, to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for seven years, with an amendment. (S. Rept. No. 104-244)
- S. 1224, to amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, with an amendment in the nature of a substitute. (S. Rept. No. 104-246)
- Special Report entitled “Capability of the United States to Monitor Compliance with the Start II Treaty”. (S. Rept. No. 104-245)
- S. Con. Res. 42, concerning the emancipation of the Iranian Baha’i community. Page S3017

Measures Passed:

Enrollment Correction: Senate agreed to S. Con. Res. 49, providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs. Page S2995

Honoring Former Senator Muskie: Senate agreed to S. Res. 234, relative to the death of Edmund S. Muskie. Pages S2996-97

Special Olympics Torch Relay: Senate agreed to H. Con. Res. 146, authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds. Page S3033

National Peace Officers’ Memorial Service: Senate agreed to H. Con. Res. 147, authorizing the use of the Capitol Grounds for the fifteenth annual National Peace Officers’ Memorial Service. Page S3033

National Roller Coaster Week: Senate agreed to S. Res. 235, proclaiming the week of June 16-22, 1996, as “National Roller Coaster Week”. Page S3033

Administration of Presidio Properties: Senate continued consideration of H.R. 1296, to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, agreeing to the committee amendment in the nature of a substitute, and taking action on the following amendments thereto:
- Pending:
  - Murkowski Modified Amendment No. 3564, in the nature of a substitute. Page S2907
  - Dole Amendment No. 3571 (to Amendment No. 3564), to provide for the exchange of certain land and interests in land located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana. Page S2907
  - Dole Amendment No. 3572 (to Amendment No. 3571), in the nature of a substitute. Page S2907
  - Kennedy Amendment No. 3573, to provide for an increase in the minimum wage rate. Page S2907
  - Kerry Amendment No. 3574 (to Amendment No. 3573), in the nature of a substitute. (By a unanimous vote of 97 nays (Vote No. 52), Senate failed to table the amendment.) Page S2907
  - Dole motion to commit the bill to the Committee on Finance with instructions. Page S2907
  - Dole Amendment No. 3653 (to the instructions of the motion to commit), to strike the instructions and insert in lieu thereof “to report back by April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill.” Page S2907
  - Dole Amendment No. 3654 (to Amendment No. 3653), in the nature of a substitute. Page S2907
- Also, during consideration of this measure today, the Senate took the following action:
  - By 51 yeas to 49 nays (Vote No. 54) three-fifths of those Senators duly chosen and sworn not having
voted in the affirmative, Senate failed to agree to close further debate on Murkowski Modified Amendment No. 3564, listed above. Page S2924

Senate will continue consideration of the bill on Thursday, March 28, 1996, with a vote on a motion to close further debate on Kennedy Amendment No. 3573, listed above, to occur thereon.

Line-Item Veto Conference Report: By 69 yeas to 31 nays (Vote No. 56), Senate agreed to the conference report on S. 4, to give the President line-item veto authority with respect to appropriations, new direct spending, and limited tax benefits, after taking the following actions:

Pages S2925, S2927, S2929-95

Rejected:

Byrd motion to recommit the conference report to the committee of conference with instructions. (By 58 yeas to 42 nays (Vote No. 55), Senate tabled the motion to recommit the conference report.)

Pages S2949-78

Subsequently, the following amendments fell when the motion to recommit was tabled:

Byrd Amendment No. 3665 (to instructions in motion to recommit), in the nature of a substitute.

Pages S2951-78

Byrd Amendment No. 3666 (to Amendment No. 3665), in the nature of a substitute.

Pages S2952-78

Farm Bill Conference Report: Senate began consideration of the conference report on H.R. 2854, to modify the operation of certain agricultural programs.

Pages S2996, S2997-S3004

Senate will continue consideration of the conference report on Thursday, March 28, 1996, with a vote to occur thereon.

Foreign Relations Authorizations Conference Report—Agreement: A unanimous-consent time-agreement was reached providing for the consideration of the conference report on H.R. 1561, to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal year 1996 and 1997; and to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997.

Page S3033

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting the report of the administration of the Radiation Control for Health and Safety Act for calendar year 1994; referred to the Committee on Labor and Human Resources. (PM-135).

Page S3012

Transmitting the report on the Trade Agreements Program for calendar year 1995 and the Trade Policy Agenda for calendar year 1996; referred to the Committee on Finance. (PM-136).

Page S3012

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported the nominations of Kenneth H. Bacon, of the District of Columbia, to be an Assistant Secretary of Defense, Joseph J. DInunno, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board, Franklin D. Kramer, of the District of Columbia, to be an Assistant Secretary of Defense, and 2,700 military nominations in the Army, Navy, and Air Force.

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—DEFENSE

Committee on Appropriations: Subcommittee on Defense held hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Navy and Marine Corps programs, receiving testimony from John H. Dalton, Secretary of the Navy; Adm. Jeremy M. Boorda, USN, Chief of Naval Operations; and Gen. Charles C. Krulak, USMC, Commandant of the Marine Corps.

Subcommittee will meet again on Wednesday, April 17.
AUTHORIZATION—DEFENSE
Committee on Armed Services: Subcommittee on Acquisition and Technology resumed hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on proliferation of weapons of mass destruction and the impact of export controls on national security, receiving testimony from Mitchel B. Wallerstein, Deputy Assistant Secretary (Counter Proliferation Policy), and Theodore Prociv, Deputy Assistant to the Assistant to the Secretary of Defense (Atomic Energy), both of the Department of Defense; Gordon Oehler, Director, Non-Proliferation Center, Central Intelligence Agency; Rear Adm. Scott A. Fry, Deputy Director, Strategy Policy, J-5, Joint Staff; Col. Ellen Pawlakowski, Deputy for Counter-proliferation, Office of the Assistant to the Secretary of Defense for Atomic Energy; and Stephen B. Bryen, Delta Tech, Inc., and Henry D. Sokolski, Non-Proliferation Policy Education Center, both of Washington, D.C.

Subcommittee recessed subject to call.

AUTHORIZATION—DEFENSE
Committee on Armed Services: Subcommittee on Seapower continued hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the Department of the Navy's Submarine Development and Procurement programs, receiving testimony from John W. Douglass, Assistant Secretary of the Navy for Research, Development and Acquisition; Vice Adm. Thomas J. Lopez, USN, Deputy Chief of Naval Operations; Vice Adm. Albert J. Baciocco, Jr., USN (Ret.), Submarine Technology Assessment Panel, Department of the Navy; Norman Polmar, Technics, Inc., Arlington, Virginia; Lowell Wood, Stanford University, Stanford, California; and Tony Battista, Fredericksburg, Virginia.

Subcommittee will meet again tomorrow.

NOMINATIONS
Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably and reported the nominations of Alan Greenspan, of New York, to be Chairman, and Alice M. Rivlin, of Pennsylvania, and Lawrence H. Meyer, of Missouri, both to be Members, all of the Board of Governors of the Federal Reserve System, Stuart E. Eizenstat, of Maryland, to be Under Secretary of Commerce for International Trade, and Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation.

SPECTRUM USE AND MANAGEMENT
Committee on Commerce, Science, and Transportation: Committee held hearings to examine Federal policies with regard to the use and management of the electromagnetic radio frequency spectrum, receiving testimony from Thomas E. Wheeler, Cellular Telecommunications Industry Association, Leonard S. Kolsky, Motorola, and James Gattuso, Citizens for a Sound Economy, all of Washington, D.C.; Ronald T. LeMay, Sprint Spectrum, Kansas City, Missouri; Thomas W. Hazlett, University of California, Davis, on behalf of the American Enterprise Institute; Larsh M. Johnson, CellNet Data Systems, San Carlos, California; Mark E. Crosby, Industrial Telecommunications Association, Arlington, Virginia; and Mitchell S. Rouse, Taxi Systems, Gardena, California, on behalf of the International Taxicab and Livery Association.

Hearings continue on Thursday, April 18.

STRATEGIC PETROLEUM RESERVE
Committee on Energy and Natural Resources: Committee concluded hearings on S. 1605, to amend and extend to September 30, 2001 certain authorities of the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve, and S. 186, to amend the Energy Policy and Conservation Act to guarantee Hawaii access to the strategic petroleum reserve during an oil supply disruption, after receiving testimony from C. Kyle Simpson, Associate Deputy Secretary of Energy for Energy Programs.

OIL SPILL PREVENTION
Committee on Environment and Public Works: Committee held hearings on proposals to improve the prevention of, and response to, oil spills in light of the recent North Cape spill off the coast of Rhode Island, receiving testimony from Rear Adm. James C. Card, Chief, Office of Marine Safety, Security, and Environmental Protection, United States Coast Guard, Department of Transportation; Douglas K. Hall, Assistant Secretary of Commerce for Oceans and Atmosphere/National Oceanic and Atmospheric Administration; Daniel Sheehan, National Pollution Funds Center, and Thomas A. Allegretti, American Waterways Operators, both of Arlington, Virginia; Timothy R.E. Keeney, Rhode Island Department of Environmental Management, Providence; George C. Blake, Maritime Overseas Corporation, and Richard H. Hobbie III, on behalf of the Water Quality Insurance Syndicate and the American Institute of Marine Underwriters, both of New York, New York; Sally Ann Lentz, Ocean Advocates, Columbia, Maryland; Barry Hartman, Kirkpatrick & Lockhart, Washington, D.C., on behalf of the Rhode Island
Lobstermen's Association, Inc.; Mark Miller, National Response Corporation, Calverton, New York; and William R. Gordon, Jr., University of Rhode Island, Kingston.

Hearings were recessed subject to call.

BUSINESS MEETING
Committee on Foreign Relations: Committee ordered favorably reported the following business items:

S. Con. Res. 42, concerning the emancipation of the Iranian Bahá‘í community;

The nominations of Alfred C. DeCotiis, of New Jersey, to be a Representative of the United States of America to the Fiftieth Session of the General Assembly of the United Nations; J. Stapleton Roy, of Pennsylvania, for personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period; Lottie Lee Shackelford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation; Henry McKoy, of North Carolina, and Ernest G. Green, of the District of Columbia, each to be a Member of the Board of Directors of the African Development Foundation; Lawrence Neal Benedict, of California, to be Ambassador to the Republic of Cape Verde; Harold Walter Geisel, of Illinois, to be Ambassador to the Republic of Mauritius and to serve concurrently and without additional compensation as Ambassador to the Federal and Islamic Republic of The Comoros; Aubrey Hooks, of Virginia, to be Ambassador to the Republic of the Congo; Robert Krueger, of Texas, to be Ambassador to the Republic of Botswana; and David H. Shinn, of Washington, to be Ambassador to Ethiopia, and two Foreign Service Officer Promotion lists;


The Treaty Between the Government of the United States of America and the Government of the Republic of Estonia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex, done at Washington on April 19, 1994 (Treaty Doc. 103-38);

The Treaty Between the Government of the United States of America and the Government of the Republic of Georgia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex, signed at Washington on March 7, 1994 (Treaty Doc. 104-13);

The Treaty Between the United States of America and Jamaica Concerning the Reciprocal Encouragement and Protection of Investment, with Annex and Protocol, signed at Washington on February 4, 1994 (Treaty Doc. 103-35);

The Treaty Between the Government of the United States of America and the Government of the Republic of Latvia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on January 13, 1995 (Treaty Doc. 104-12);

The Treaty Between the United States of America and Mongolia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on October 6, 1994 (Treaty Doc. 104-10);


WEAPONS PROLIFERATION
Committee on Governmental Affairs: Permanent Subcommittee on Investigations resumed hearings to examine the status of United States efforts to improve nuclear material control in the Newly Independent States, receiving testimony from John F. Sopko, Deputy Chief Counsel to the Minority, and Alan Edelman, Counsel to the Minority, both of the Permanent Subcommittee on Investigations; G. Clay Hollister, Deputy Associate Director, Response and Recovery Directorate, Federal Emergency Management Agency; Robert M. Blitzer, Chief, Domestic Terrorism/Counterterrorism Planning Section, National Security Division, Federal Bureau of Investigation, Department of Justice; Victor H. Reis, Assistant Secretary of Energy for Defense Programs; H. Allen Holmes, Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict; Morris D. Busby, former Counter Terrorism Coordinator for the United States Government and former U.S. Ambassador to Colombia; Duane C. Sewell, former Assistant Secretary of Energy; Billy Richardson, former Deputy Assistant to the Secretary of Defense; P. Lamont Ewell, Oakland, California, on behalf of...
the International Association of Fire Chiefs; and
Gary Marrs, Oklahoma City Fire Department, Okla-
ahoma City, Oklahoma.

Hearings were recessed subject to call.

NOMINATIONS

Committee on the Judiciary: Committee concluded
hearings on the nominations of Eric L. Clay, of
Michigan, to be United States Circuit Judge for the
Sixth Circuit, Charles N. Clevert, Jr., to be United
States District Judge for the Eastern District of Wis-
consin, Nanette K. Laughrey, to be United States
District Judge for the Eastern and Western Districts
of Missouri, Donald W. Molloy, to be United States
District Judge for the District of Montana, and
Susan Oki Mollway, to be United States District
Judge for the District of Hawaii, after the nominees
tested and answered questions in their own behalf.
Mr. Clay was introduced by Senators Abraham and
Levin, Mr. Clevert was introduced by Senators Kohl
and Feingold, Ms. Laughrey was introduced by Sen-
ators Bond and Ashcroft, Mr. Molloy was introduced
by Senator Baucus and Representative McCarthy, and
Ms. Mollway was introduced by Senators Inouye and
Akaka.

FDA REFORM

Committee on Labor and Human Resources: Committee
began markup of S. 1477, to amend the Federal
Food, Drug, and Cosmetic Act and the Public
Health Service Act to improve the regulation of
food, drugs, devices and biological products, but did
not complete action thereon, and recessed subject to
call.

CAMPAIGN FINANCE REFORM

Committee on Rules and Administration: Committee re-
sumed hearings on proposals to amend the Federal
Election Campaign Act of 1971 to provide for a vol-
untary system of spending limits and partial public
financing of Senate primary and general election
campaigns, to limit contributions by multicandidate
political committees, and to reform the financing of
Federal elections and Senate campaigns, including re-
lated measures S. 46, S. 1219, and S. 1389, receiv-
ing testimony from Jeffrey Zelkowitz, Attorney,
United States Postal Service; Richard A. Barton, Di-
rect Marketing Association, and Thomas E. Mann,
Brookings Institution, both of Washington, D.C.;
and Michael J. Malbin, State University of New
York, Albany.

Hearings continue on W ednesday, April 17.

BOSNIA/ROLE OF UNITED STATES
INTELLIGENCE

Select Committee on Intelligence: Committee held hear-
ings on intelligence related issues with regard to
Bosnia, receiving testimony from Lt. Gen. Patrick
Hughes, USA, Director, Defense Intelligence Agen-
cy, Department of Defense.

Committee also resumed hearings on the roles and
capabilities of the United States intelligence commu-
nity, receiving testimony from Senator Moynihan;
and former Senators DeConcini and Durenberger.

Also, committee met in closed session to receive
a briefing on intelligence matters from officials of
the intelligence community.

Committee will meet again tomorrow.

House of Representatives

Chamber Action

Bills Introduced: 14 public bills, H.R. 3166–3179; and
2 resolutions, H. Con. Res. 155–156 were intro-
duced. Pages H2949–50

Reports Filed: Reports were filed as follows:

H.R. 842, to provide off-budget treatment for the
Highway Trust Fund, the Airport and Airway Trust
Fund, the Inland Waterways Trust Fund, and the
Harbor Maintenance Trust Fund, amended (H. Rept.
104–499, Part I);

H. Res. 391, providing for the consideration of
H.R. 3136, to provide for enactment of the Senior
Citizens' Right to Work Act of 1996, the Line-Item
Veto Act, and the Small Business Growth and Fair-
ness Act of 1996, and to provide for a permanent in-
crease in the public debt limit (H. Rept. 104–500);

H. Res. 392, providing for the consideration of
H.R. 3103, to amend the Internal Revenue Code of
1986 to improve portability and continuity of health
insurance coverage in the group and individual mar-
kets, to combat waste, fraud, and abuse in health
insurance and health care delivery, to promote the use
of medical savings accounts, to improve access to
long-term care services and coverage, and to simplify
the administration of health insurance (H. Rept.
104–501);

H. Res. 393, waiving all points of order against
the conference report to accompany H.R. 2854, to
modify the operation of certain agricultural programs
(H. Rept. 104–502); and
H. Res. 394, waiving points of order against the conference report on H.R. 956, to establish legal standards and procedures for product liability litigation (H. Rept. 104-503).

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Vucanovich to act as Speaker pro tempore for today.

United States-Canada Interparliamentary Group: Read a letter from Representative Manzullo wherein he resigns as leader of the House delegation to the United States-Canada Interparliamentary Group. Subsequently, the Chair announced the Speaker’s appointment of Representative Houghton to the United States-Canada Interparliamentary Group.

Library of Congress Trust Fund: The Chair announced the Speaker’s appointment of Mrs. Marguerite S. Roll, from private life, to a three-year term on the Library of Congress Trust Fund Board on the part of the House.

Recess: House recessed at 4:41 p.m. and reconvened at 5 p.m.

Partial Abortion Ban Act: By a yea-and-nay vote of 286 yeas to 129 nays, with 1 voting “present”, Roll No. 94, the House agreed to the Canady motion to concur in the Senate amendments to H.R. 1833, to amend title 18, United States Code, to ban partial birth abortions—clearing the measure for the President.

H. Res. 389, the rule which provided for the motion to concur in the Senate amendments to the bill, was agreed to earlier by a yea-and-nay vote of 269 yeas to 148 nays, Roll No. 93.

Suspensions: House voted to suspend the rules and pass the following measures:

Aniversary of Iraqi massacre of Kurds: H. Res. 379, expressing the sense of the House of Representatives concerning the eighth anniversary of the massacre of over 5,000 Kurds as a result of a gas bomb attack by the Iraqi Government (agreed to by a yea-and-nay vote of 409 yeas to 148 nays, Roll No. 93). This measure was debated on Tuesday; and

Condemnation of Iranian treatment of Baha’is: H. Con. Res. 102, concerning the emancipation of the Iranian Baha’i community (agreed to by a yea-and-nay vote of 408 years, Roll No. 96). This measure was debated on Tuesday.

Presidential Messages: Read the following messages from the President:

Radiation control for health: Message wherein he transmits the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1994—referred to the Committee on Commerce; and


Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages H2951–65.

Quorum Calls—Votes: Four yea-and-nay votes developed during the proceedings of the House today and appear on pages H2904–05, H2928–29, H2929–30, and H2930. There were no quorum calls.

Adjournment: Met at 2 p.m. and adjourned at 11:05 p.m.

Committee Meetings

GOALS REVIEW—AGRICULTURAL RESEARCH, EDUCATION AND EXTENSION

Committee on Agriculture Subcommittee on Resource Conservation, Research, and Forestry held a hearing to review the goals and priority setting mechanisms of federally supported agricultural research, education, and extension. Testimony was heard from Karl Stauber, Under Secretary, Research, Education and Economics, USDA; and public witnesses.

AGRICULTURE, RURAL DEVELOPMENT, FDA, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies held a hearing on Natural Resources and Environment and on Farm and Foreign Agricultural Service. Testimony was heard from the following officials of the USDA: James Lyons, Under Secretary, Natural Resources and Environment; Paul W. Johnson, Chief, Natural Resources Conservation Service; Eugene Moos, Under Secretary, Farm and Foreign Agricultural Programs; Grant B. Buntrock, Administrator, Farm Service Agency; August Schumacher, Jr., Administrator, Foreign Agricultural Service; and Christopher E. Goldthwait, General Sales Manager.

COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State, and Judiciary held a hearing on...
Attorney General. Testimony was heard from Janet Reno, Attorney General.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS
Committee on Appropriations: Subcommittee on Energy and Water Development held a hearing on the Secretary of the Interior, the Commissioner of Reclamation, the NRC, and on the Federal Energy Regulatory Commission. Testimony was heard from the following officials of the Department of the Interior: Bruce Babbitt, Secretary; and Eluid Martinez, Commissioner of Reclamation; the following officials of the NRC: Shirley Ann Jackson, Chairman, Kenneth Rogers and Greta J. Dicus, all Commissioners; and Elizabeth Moler, Chairman, Federal Energy Regulatory Commission, Department of Energy.

FOREIGN OPERATIONS APPROPRIATIONS
Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing and Related Programs held a hearing on Secretary of State.Testimony was heard from Warren M. Christopher, Secretary of State.(45,229),(956,937)

NATIONAL SECURITY APPROPRIATIONS
Committee on Appropriations: Subcommittee on National Security held a hearing on fiscal year 1997 Air Force Posture and on Air Force Acquisition Programs. Testimony was heard from the following officials of the Department of the Air Force: Sheila E. Widnall, Secretary; Gen. Ronald R. Fogleman, USAF, Chief of Staff; Arthur L. Money, Assistant Secretary, Acquisition; Lt. Gen. George K. Mueller, USAF, Principal Deputy, Assistant Secretary, Acquisition; and Brig. Gen. Dennis G. Haines, USAF, Director, Supply, Office of the Deputy Chief of Staff, Logistics.

TRANSPORTATION APPROPRIATIONS
Committee on Appropriations: Subcommittee on Transportation held a hearing on Federal Transit Administration and on the Washington Metropolitan Transit Authority. Testimony was heard from Gordon J. Linton, Administrator, Federal Transit Administration, Department of Transportation; and Bob Polk, Acting General Manager, Washington Metropolitan Transit Authority.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS
Committee on Appropriations: Subcommittee on Treasury, Postal Service, and General Government held a hearing on White House Operations and on U.S. Postal Service. Testimony was heard from Frank Rudder, Director, Office of Administration, Executive Office of the President; and Marvin Runyon, Postmaster General, U.S. Postal Service.

VETERANS’ AFFAIRS, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS
Committee on Appropriations: Subcommittee on VA, HUD and Independent Agencies held a hearing on Department of Housing and Urban Development. Testimony was heard from Representatives Lazio and Brownback; the following officials of the Department of Housing and Urban Development: Henry G. Cisneros, Secretary; and Susan Gaffney, Inspector General; and Judy England-Joseph, Director, Housing and Community Development Issues, GAO.

RECENT DEVELOPMENTS IN ELECTRONIC BENEFITS TRANSFER
Committee on Banking and Financial Services: Held a hearing on Issues Related to Recent Developments in Electronic Benefits Transfer. Testimony was heard from Russell D. Morris, Commissioner, Financial Management Services, Department of the Treasury; Edward DeSeve, Comptroller, OMB; and public witnesses.

PROSPECTS FOR ECONOMIC GROWTH
Committee on the Budget: Held a hearing on Prospects for Economic Growth. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System.

DEPARTMENT OF ENERGY: FURLOUGHS AND FINANCIAL MANAGEMENT
Committee on Commerce: Subcommittee on Oversight and Investigations held a hearing on the Department of Energy: Furloughs and Financial Management. Testimony was heard from the following officials of the Department of Energy: L. Dow Davis, Litigation Attorney, and Deborah J. Bullock, both with the Office of the General Counsel; Anne Troy, Attorney; and Joseph F. Vivona, Chief Financial Officer; and public witnesses.

FCC REFORM
Committee on Commerce: Subcommittee on Telecommunications and Finance held a hearing on FCC Reform. Testimony was heard from the following officials of the FCC: Reed E. Hundt, Chairman; James Quello, Sussan Ness, Andrew C. Barrett, and Rachelle B. Chong, all Commissioners.

Hearings continue tomorrow.

FEDERAL BUDGET PROCESS REFORM
Committee on Government Reform and Oversight: Subcommittee on Government Management, Information, and Technology held a hearing on Federal
Budget Process Reform. Testimony was heard from Representatives Barton of Texas, Cox of California, Smith of Michigan, Crapo, Stenholm, Thornton, Castle, Royce, and Smith of Texas; and public witnesses.

DEFENSE AUTHORIZATION

Committee on National Security: Continued hearings on the fiscal year 1997 national defense authorization, with emphasis on the Department of Defense Joint Requirements Oversight Council. Testimony was heard from the following officials of the Joint Requirements Oversight Council, Department of Defense: Gen. Joseph W. Ralston, USAF, Vice Chairman, Joint Chiefs of Staff; Gen Ronald H. Griffith, USA, Vice Chief of Staff, Army; Adm. Jay J. Johnson, USN, Vice Chief of Naval Operations; Gen. Thomas S. Moorman, Jr., USAF, Vice Chief of Staff, Air Force; and Gen. Richard D. Hearney, USMC, Assistant Commandant, Marine Corps.

Hearings continue tomorrow.

DEFENSE AUTHORIZATION


OVERSIGHT—FISCAL YEAR 1997 BUDGET REQUESTS

Committee on Resources: Subcommittee on Fisheries, Wildlife and Oceans held an oversight hearing on fiscal year 1997 budget requests from Fish and Wildlife Service, National Marine Fisheries Service, and NOAA and on the following bills: H.R. 2909, Silvio O. Conte National Fish and Wildlife Refuge Eminent Domain Prevention Act, and H.R. 2982, Carbon Hill National Fish Hatchery Conveyance Act. Testimony was heard from Representatives Bevill and Bass; Robert Streeter, Assistant Director, Refuges and Wildlife, U.S. Fish and Wildlife Service, Department of the Interior; the following officials of the Department of Commerce: D. James Baker, Under Secretary, Oceans and Atmosphere; and Diana Josephson, Deputy Under Secretary, Oceans and Atmosphere, NOAA; Robert W. Correll, Assistant Director, Geosciences, NSF; and public witnesses.

HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT; ERISA TARGETED HEALTH INSURANCE REFORM ACT

Committee on Rules: The Committee granted, by a voice vote, a modified closed rule on H.R. 3103, to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote access to long-term care services and coverage, and to simplify the administration of health insurance. The rule provides that the amendment in the nature of a substitute consisting of the text of H.R. 3160, modified by the amendment specified in part 1 of the report of the Committee on Rules, will be considered as adopted. The rule waives all points of order against the bill, as amended and against its consideration (except those arising under section 425(a) of the Congressional Budget Act of 1974, relating to unfunded mandates). The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage, without intervening motion except as specified. The rule provides for two hours of debate with 45 minutes equally divided between the chairman and ranking minority member of the Committee on Ways and Means, 45 minutes equally divided between the chairman and ranking minority member of the Committee on Commerce, and 30 minutes equally divided between the chairman and ranking minority member of the Committee on Economic and Educational Opportunities. The rule provides for one amendment in the nature of a substitute to be offered by the Minority Leader or his designee, specified in part 2 of the report of the Committee on Rules, which shall be in order without the intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or a demand for a division of the question, and shall be debatable for one hour to be equally divided between the proponent and an opponent. The rule provides for one motion to recommit, which may include instructions only if offered by the Minority Leader or his designee. The rule provides that the yeas and nays are ordered on final passage and that the provisions of clause 5(c) of Rule XXI (requiring three-fifths vote on any amendment or measure containing a Federal income tax rate increase)
shall not apply to the votes on the bill, amendments thereto or conference reports thereon. Testimony was heard from Chairmen Archer, Bliley and Goodling; Representatives Hastert, Johnson of Connecticut, Roukema, Gunderson, Fawell, Shays, Schiff, Gutknecht, Bunn of Oregon, Roberts, Gibbons, Dingell, Cardin, Richardson, Pallone, Furse, Eshoo, Peterson of Florida, Pomeroy, and Poshard.

**CONTRACT WITH AMERICA ADVANCEMENT ACT**

Committee on Rules: The Committee granted, by a voice vote, a closed rule on H.R. 3136, to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; as modified by the amendment designated in the report of the Committee on Rules on the resolution. The rule waives all points of order against consideration of the bill except section 425(a) of the Budget Act (unfunded mandate point of order). The rule orders the previous question to final passage without intervening motion except: (1) one hour of debate equally divided between the chairman and ranking minority member of the Committee on Ways and Means; (2) one amendment to be offered by Rep. Archer or his designee, debatable for 10 minutes; and (3) one motion to recommit which, if containing instructions may only be offered by the Minority Leader or his designee. Finally, the rule provides that if the Clerk has, before March 30, 1996, received a message from the Senate that the Senate has adopted the conference report on S. 4, the Line-Item Veto Act, then the Clerk shall delete title II (the Line-Item Veto Act) from the engrossment of the bill (unless amended), and the House shall be considered to have adopted the conference report. Testimony was heard from Chairmen Archer, Hyde, Meyers of Kansas, and Clinger; and Representatives Smith of Michigan, Blute, Quinn, Orton, and DeLauro.

**CONFERENCE REPORT—FEDERAL AGRICULTURAL IMPROVEMENT AND REFORM ACT**

Committee on Rules: The Committee granted, by a voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2854, Federal Agricultural Improvement and Reform Act of 1996, and against its consideration. The rule further provides that S. Con. Res. 49 is agreed to.

**CONFERENCE REPORT—PRODUCT LIABILITY REFORM**

Committee on Rules: The Committee granted, by a voice vote, a rule waiving all points of order against the conference report to accompany H.R. 956, Product Liability Reform, and against its consideration.

**PAPERWORK ELIMINATION ACT**

Committee on Small Business: Subcommittee on Government Programs held a hearing on H.R. 2715, Paperwork Elimination Act of 1995. Testimony was heard from Sally Katzen, Administrator, Office of Information and Regulatory Affairs, OMB; the following officials of the SBA: Jere Glover, Chief Counsel, Office of advocacy; and Monika Harrison, Associate Administrator, Office of Business Initiatives; and public witnesses.

**COMMITTEE BUSINESS**

Committee on Standards of Official Conduct: Met in executive session to consider pending business.

**UNITED STATES AVIATION RELATIONSHIP WITH THE U.K. AND JAPAN**

Committee on Transportation and Infrastructure Subcommittee on Aviation held a hearing on Problems in the United States Aviation Relationship with the United Kingdom and Japan. Testimony was heard from Public witnesses. Hearings continue April 24.

**NATIONAL TRANSPORTATION SAFETY BOARD**

Committee on Transportation and Infrastructure Subcommittee on Aviation approved for full Committee action H.R. 3159, National Transportation Safety Board Amendments of 1996.

**RAIL SAFETY OVERSIGHT**

Committee on Transportation and Infrastructure Subcommittee on Railroads and the Subcommittee on Technology of the Committee on Science held a joint hearing on Rail Safety Oversight: High Technology Train Control Devices. Testimony was heard from Jolene Molitoris, Administrator, Federal Railroad Administration, Department of Transportation; James Arena, Director, Office of Surface Transportation Safety, National Transportation Safety Board; Dennis Sullivan, CEO, National Rail Passenger Corporation (AMTRAK); and public witnesses.

**REPLACING THE FEDERAL INCOME TAX**

Committee on Ways and Means: Continued hearings on Replacing the Federal Income Tax. Testimony was heard from Representatives Armey, Gephardt, Schaefer, Tauzin, and Chrysler, and public witnesses.

**ANALYSIS/EXPLOITATION**

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Analysis/Exploitation. Testimony was heard from departmental witnesses.
Joint Meetings

VETERANS PROGRAMS

Joint Hearing: Senate Committee on Veterans' Affairs concluded joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of certain veterans' organizations, after receiving testimony from James L. Brazee, Jr., Vietnam Veterans of America, Lawrence S. Moses, America Ex-Prisoners of War, and Carroll M. Fyffe, Military Order of the Purple Heart, all of Washington, D.C.; and Kenneth E. Wolford, AMVETS, Lanham, Maryland.

CONTINUING APPROPRIATIONS

Conferees continued to resolve the differences between the Senate-and House-passed versions of H.R. 3019, making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, but did not complete action thereon, and will meet again tomorrow.

AUTHORIZATION—RYAN WHITE CARE ACT

Conferees met to resolve the differences between the Senate- and House-passed versions of S. 641, authorizing funds for programs of the Ryan White CARE Act of 1990, but did not complete action thereon, and recessed subject to call.

COMPREHENSIVE TERRORISM PREVENTION ACT

Conferees met to resolve the differences between the Senate- and House-passed versions of S. 735, to prevent and punish acts of terrorism, but did not complete action thereon, and recessed subject to call.

NEW PUBLIC LAWS

(For last listing of Public Laws, see Daily Digest p. D263)

H.R. 2036, to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility. Signed March 26, 1996. (P.L. 104-119)

COMMITTEE MEETINGS FOR THURSDAY, MARCH 28, 1996

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, and Related Agencies, to hold hearings on proposed budget estimates for fiscal year 1997 for the Food Safety and Inspection Service and the Marketing and Regulatory Programs of the Department of Agriculture, 10 a.m., SD-138.

Committee on Armed Services, to resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the military strategies and operational requirements of the unified commands, 11 a.m., SR-222.

Subcommittee on Seapower, to hold hearings on the multiyear procurement proposal for the C-17 strategic airlifter, 2:30 p.m., SR-222.

Committee on Banking, Housing, and Urban Affairs, to hold hearings on S. 1547, to limit the provision of assistance to the Government of Mexico using the exchange stabilization fund established pursuant to section 5302 of title 31, United States Code, 10 a.m., SD-538.

Committee on Commerce, Science, and Transportation, business meeting, to consider pending calendar business, 9:30 a.m., SH-216.

Committee on Environment and Public Works, business meeting, to consider pending calendar business, 9:15 a.m., SD-406.

House

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, on Departmental Administration/Office of Chief Financial Officer, 10 a.m., and on Rural Economic and Community Development, 1 p.m., 2362A Rayburn.

Subcommittee on Commerce, Justice, State, and Judiciary, on the Supreme Court, 2 p.m., H-309 Capitol.

Subcommittee on Energy and Water Development, on Appalachian Regional Commission, 10 a.m., on TVA, 11 a.m., and, executive, on Naval Reactors, 1 p.m., and, executive, on Department of Energy Atomic Energy Defense Activities, 2 p.m., 2362B Rayburn.
March 27, 1996

CONGRESSIONAL RECORD – DAILY DIGEST


Subcommittee on Military Construction, on Budget Overview, 9:30 a.m., B–300 Rayburn.

Subcommittee on National Security, on fiscal year 1997 Army Posture, 10 a.m., 2212 Rayburn, and on Army Acquisition Programs, 1:30 p.m., H–140 Capitol.

Subcommittee on Treasury, Postal Service, and General Government, on Council of Economic Advisors, 10 a.m., B–307 Rayburn, and on Overall Treasury Operations, 2 p.m., H–144 Capitol.

Subcommittee on VA, HUD and Independent Agencies, on Department of Veterans’ Affairs, 9 a.m., 2360 Rayburn.

Committee on Banking and Financial Services, Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises, to mark up the Enterprise Resource Bank Act of 1996, 1:30 p.m., 2128 Rayburn.

Committee on the Budget, hearing on the Implications of Taking the Transportation Trust Funds Off-Budget, 11 a.m., 210 Cannon.

Committee on Commerce Subcommittee on Energy and Power, oversight hearing on Technological, Environmental, and Financial Issues Raised by Increasingly Competitive Electricity Markets, 11 a.m., 2322 Rayburn.

Subcommittee on Telecommunications and Finance, to continue hearings on FCC Reform, 11 a.m., 2123 Rayburn.

Committee on Economic and Educational Opportunities. Subcommittee on Early Childhood, Youth and Families, hearing on reviewing the Juvenile Justice and Delinquency Prevention Act, 11 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on District of Columbia, to continue hearings on implementation of Public Law 104–8, District of Columbia Financial Responsibility and Management Assistance Act of 1995, 12 p.m., 311 Cannon.

Subcommittee on Human Resources and Intergovernmental Relations, to continue hearings on the Status of Efforts to Identify Persian Gulf War Syndrome, Part 11, 10 a.m., 2247 Rayburn.

Committee on International Relations, hearing on Developments in Iraq, 11 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative law, hearing on H.R. 1802, Reorganization of the Federal Administrative Judiciary Act, 9:30 a.m., 2141 Rayburn.

Committee on National Security, to continue hearings on the fiscal year 1997 national defense authorization, 9:30 a.m., and 2 p.m., 2118 Rayburn.

Committee on Resources, to mark up the following measures: H.R. 3034, to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act; H.R. 2107, Visitor Services Improvement and Outdoor Legacy Act of 1995; H.R. 1975, Federal Oil and Gas Royalty Simplification and Fairness Act of 1995; H.J. Res. 70, authorizing the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia or its environs; H.R. 1129, to amend the National Trains Systems Act to designate the route from Selma to Montgomery as a National Historic Trail; H.R. 1772, to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex; H.R. 1836, to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge; H.R. 2660, to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge; and H.R. 2679, to revise the boundary of the North Platte National Wildlife Refuge, 11 a.m., 1324 Longworth.

Committee on Science, Subcommittee on Space and Aeronautics, hearing on NASA Posture, 1 p.m., 2318 Rayburn.

Committee on Small Business, to mark up the following bills: H.R. 3158, Pilot Small Business Technology Transfer Program Extension Act of 1996; and H.R. 2715, Paperwork Elimination Act of 1995, 11:30 a.m., 2359 Rayburn.

Committee on Standards of Official Conduct, executive, to consider pending business, 3 p.m., HT–2M Capitol.

Committee on Transportation and Infrastructure, Subcommittee on Public Buildings and Economic Development, to consider the following: pending prospectuses, H. Con. Res. 150, authorizing the use of the Capitol Grounds for an event sponsored by the Speciality Equipment Market Association; H. Con. Res. 153, authorizing the use of the Capital Grounds for the Greater Washington Soap Box Derby; H.R. 3134, to designate the E. Barrett Prettyman United States Courthouse under construction at 1030 Southwest 3d Avenue, Portland, OR, as the “Mark O. Hatfield United States Courthouse” and H.R. 3029, to designate the United States courthouse in Washington, District of Columbia, as the “E. Barrett Prettyman United States Courthouse,” 8:30 a.m., 2253 Rayburn.

Subcommittee on Surface Transportation, hearing on the Importance of Transportation Infrastructure Investments to the Nation’s Future, 11:30 a.m., 2167 Rayburn.

Subcommittee on Water Resources and Environment and the Subcommittee on Coast Guard and Maritime Transportation, joint hearing on H.R. 2940, Deepwater Port Modernization Act, 3 p.m., 2167 Rayburn.

Committee on Ways and Means, Subcommittee on Oversight, hearing on IRS Budget for Fiscal Year 1997 and the 1996 Tax Return Filing Season, 10 a.m., 1100 Longworth.

Subcommittee on Trade, hearing on United States-Japan Trade Relations, 2:30 p.m., B–318 Rayburn.

Joint Meetings

Conferees, on H.R. 3019, making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, 10:30 a.m., S–5, Capitol.
Next Meeting of the SENATE
9 a.m., Thursday, March 28

Program for Thursday: Senate will continue consideration of the conference report on H.R. 2854, Farm Bill, with a vote to occur thereon, following which Senate will resume consideration of H.R. 1296, relating to the administration of certain Presidio properties, with a vote on a motion to close further debate on Murkowski Modified Amendment No. 3564, in the nature of a substitute, to occur thereon.

Senate may also consider the conference report on H.R. 1561, Foreign Relations Authorizations Act, and conference report on H.R. 3019, Omnibus Appropriations.

Next Meeting of the HOUSE OF REPRESENTATIVES
10 a.m., Thursday, March 28

Program for Thursday: Consideration of H.R. 3136, Contract With America Advancement Act (closed rule, 1 hour of general debate);
Consideration of H.R. 3103, Health Coverage Availability and Affordability Act (modified closed rule, 2 hours of general debate); and
Consideration of the conference report on H.R. 2854, Federal Agricultural Improvement and Reform (rule waiving points of order).

Extensions of Remarks, as inserted in this issue

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