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House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
November 9, 1997.

I hereby designate the Honorable JO ANN EMERSON 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:

Let us pray using the words of St. Francis:

Lord, make us instruments of Your peace.
Where there is hatred, let us sow love;
where there is injury, pardon;
where there is discord, union;
where there is doubt, faith;
where there is despair, hope;
where there is darkness, light;
where there is sadness, joy.
Grant that we may not so much seek
to be consoled as to console;
to be understood as to understand;
to be loved as to love.
For it is in giving that we receive;
it is in pardoning that we are pardoned; and
it is in dying that we are born to eternal life. Amen.

THE JOURNAL

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

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

Mr. MCNULTY. Madam Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

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

Mr. MCNULTY. Madam 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. Pursuant to clause 5 of rule 1, further proceedings on this question are postponed.

NOTICE

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JOHN WARNER, *Chairman.*

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

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The point of order is considered withdrawn.

PLEDGE OF ALLEGIANCE

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

Mr. MCNULTY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1086. An act to codify without substantive change laws related to transportation and to improve the United States Code;

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants;

H.R. 2731. An act for the relief of Roy Desmond Moser; and

H.R. 2732. An act for the relief of John Andre Chalot.

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

H.R. 497. An act to repeal the Federal charter of Group Hospitalization and Medical Services, Inc., and for other purposes; and

H.R. 867. An act to promote the adoption of children in foster care.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1026) ''An act to reauthorize the Export-Import Bank of the United States.''

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

S. 508. An act to provide for the relief of Mai Hoa ''Jasmin'' Salehi;

S. 759. An act to amend the State Department Basic Authorities Act of 1956 to require the Secretary of State to submit an annual report to Congress concerning diplomatic immunity;

S. 857. An act for the relief of Roma Salobrit;

S. 1193. An act to amend chapter 443 of title 49, United States Code, to extend the authorization of the aviation insurance program, and for other purposes;

S. 1258. An act to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act;

S. 1304. An act for the relief of Belinda McGregor;

S. 1347. An act to permit the city of Cleveland, Ohio, to convey certain lands that the United States conveyed to the city;

S. 1487. An act to establish a National Voluntary Mutual Reunion Registry;

S. Con. Res. 58. Concurrent resolution expressing the concern of Congress over Russia's newly passed religion law; and

S. Con. Res. 66. Concurrent resolution to correct the enrollment of S. 399.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. SOLOMON. Madam Speaker, I would like to announce the intentions to call up the following bills under suspension today:

S. 714, Homeless Veterans;

S. 1139, Small Business;

H.R. 1129, Microcredit;

H. Con. Res. 22, Scientology;

H. Con. Res. 239, Expo 2000;

H. Res. 245, Elections in Sahara;

H. Con. Res. 156, Afghanistan Women;

H.R. 1377, SAVER Act;

H.R. 2920, Immigration Deadline;

S. 1231, U.S. Fire Administration;

H.R. 112, Stanislaus County;

H.R. 1805, Auburn Indian Restoration;

H.R. 2402, Water-Related Technical Corrections;

H.R. 2283, Arches National Park;

S. 669, Jimmy Carter Historic Site;

H.R. 2834, Cleveland Airport Transfer;

H.R. 2626, Pilot Records Improvement;

H.R. 849, Uniform Relocation;

H.R. 2476, Foreign Irline Family; and

H.R. 1502 James Foreman Courthouse.

Mr. TRAFICANT. Madam Speaker, reserving the right to object.

The SPEAKER pro tempore. The gentleman from New York is only making an announcement pursuant to House Resolution 305.

Mr. SOLOMON. Madam Speaker, if I might continue:

H.R. 861, Adoption;

S. 1026, Ex-Im Bank Conference Report;

H.R. 2472, EPCA; and

The FDA Commerce Report.

And one final bill, Madam Speaker, and one final bill, S. 1258.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members on each side for 1 minutes. There will be ten 1-minutes on each side.

LET US STICK TO THE DECLARATION OF INDEPENDENCE

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

Mr. GUTKNECHT. Madam Speaker, last week President Clinton told the voters of Virginia, the ones who supported repealing the car tax, that they were selfish.

Well, excuse me, Mr. President, but maybe you have forgotten what the Declaration of Independence says. It says that all men are created equal and they have certain inalienable rights, and among those rights are life, liberty, and the pursuit of happiness.

I find it remarkable that anyone would not notice that liberty and the pursuit of happiness both apply to the idea of who gets to decide what to do with their money. That is really the point. This is not a question of selfishness, but whether and who will decide how to spend their money.

Conservatives emphasize that people are the best judge of how their money should be spent, whereas liberals tend to think that politicians are a superior judge of how and where the money should be spent, especially if they, the liberals, are positively excited about spending the people's money to carry out social engineering plans.

As for me, I think I will stick with the original intent of the American Declaration of Independence.

STAND UP FOR AMERICA: DEFEAT FAST TRACK

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

Mr. KUCINICH. Madam Speaker, since the passage of NAFTA, NAFTA has contributed to numerous workplace, economic and environmental problems, including an increase in the import of contaminated food, downward pressure on United States wages, employer threats to move to Mexico, and a skyrocketing trade deficit.

Fast-track has failed to address any of those problems. First of all, with respect to our trade deficit growth and the loss of jobs, fast-track takes no action on that, no improvement, fails to address it.

Second, there is pressure to lower U.S. wages, and there is lowering of wages going on in this country in manufacturing because of NAFTA. Fast-track fails to address that.

Third, since NAFTA, we have had employer threats to move to NAFTA partner countries. The fast-track agreement fails to take action on that and fails to address it.

Unless we address these critical problems in fast-track, the NAFTA problems will spread like a virus through North America and the world. We need higher standards for our wages, for our workers and for our countries. Stand up for America; defeat fast-track.

TRIBUTE TO MAJOR GENERAL LANSFORD E. TRAPP

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

Mr. THUNE. Madam Speaker, today I rise to pay tribute to Maj. Gen. Lansford Trapp. Most know General

Trapp as the director of the Air Force's Legislative Liaison Office. I know the general as a fellow South Dakotan and a fine soldier.

The good news is that General Trapp has been selected as the next commander of the 12th Air Force. The bad news is that Congress is losing a great legislative liaison, not to mention another fine person from the Rushmore State.

Through the past 28 years, General Trapp has served in the Air Force with honor and distinction. He is a command pilot with over 3,000 flying hours. In Southeast Asia he flew over 700 combat hours and later commanded our air wing in Panama during Operation Just Cause. He has held 5 commanding positions, which is a real tribute to his leadership capabilities.

I would like to think that General Trapp's dedication to service and loyalty to his troops was instilled as a boy growing up in South Dakota. It was there where he attended South Dakota State on a ROTC scholarship, and where his parents and family still reside. I think he is also a product of the U.S. Air Force. The combination has produced an excellent commander that our Nation can be proud of.

I can think of no person more qualified to lead and care for our men and women than Gen. Lanny Trapp. To him, his wife Nancy and daughter Bethany, we wish God's blessing and Godspeed.

NEW TRADE POLICY FOR ALL AMERICANS

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

Mr. DEFAZIO. Madam Speaker, the proponents of fast track would have us believe today's legislative battle is about whether or not the United States will trade. This is not about a battle between protection as free traders, but rather a struggle over the conditions of that trade and who will benefit from that trade. On one side, the President, the entire administration, the Republican leadership, and a fleet of corporate CEO's who have actually been given office space right downstairs in the Capitol in violation of the House rules.

On our side, 80 percent of the Democrats and a small group of Republicans. We think it is time to overhaul our failing trade policy, a policy that has brought $160 billion trade deficits, exported jobs, driven down wages, weakened our environmental and food safety laws, all in the name of free trade. A policy that undermines our values to encourage a race to the bottom; enriching a few multinational corporations and their CEO's at the expense of the majority of American workers and communities.

''No'' to the threats, ''no'' to the silent promises, ''no'' to the legal campaign bribery, ''no'' to fast track, and ''yes'' to the beginnings of a new trade policy that benefits all Americans.

TIME FOR IRS REFORM

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

Mr. FORBES. Madam Speaker, the American people recently saw the IRS on trial. They saw a parade of witnesses come before the Congress to testify about the naked abuse of power over at the Internal Revenue Service. We saw current and former IRS agents who had to testify in secret because they feared for their lives. We saw ordinary citizens, taxpayers, who talked about how an audit turned their entire lives upside down, with some of them suffering great financial loss that will never be recovered. We saw a government agency totally out of control, lacking accountability, an agency where one is guilty until proven innocent.

Madam Speaker, the IRS needs radical reform. This House has taken great steps to begin that process, and we look forward to the other body and the White House to join us in this effort to reform the Internal Revenue Service, which is an agency of intimidation rather than enforcement.

STRAIGHT TALK ABOUT FAST TRACK

(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, let us tell it like it is. The last fast track traded Ma Bell for Taco Bell. Today's fast track will trade more American jobs and dollars and factories to all of Central America for a '48 Ford pickup truck, two loads of pinto beans and three ballplayers to be named later. Beam me up.

In addition, I predict we will get another 25 tons of heroin, another 35 tons of cocaine, and a lot more economic development in the form of prisons, I say to my colleagues. Let us have a little straight talk. ''This dog don't hunt. Pull this turkey.''

I yield back the balance of any jobs we have left.

FOREIGN OPERATIONS APPROPRIATION CONFERENCE REPORT

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

Mr. PAUL. Madam Speaker, I rise to point out to the House a piece of legislation that I am sure will be passed tonight or in the morning in the wee hours when a lot of people are not paying much attention, and that is the foreign operations appropriations conference report.

I would like to point out that buried in this report is a $3.5 billion new program called the new agreements to borrow, further funding for the IMF. These are the funds that will be used to bail out Third World nations and also bail out bankers and industries that have invested in these nations such as in Mexico or Indonesia.

This is considered not to be expensive because of our special accounting procedure here, it is not on budget. It is supposed to be for free. But let me call my colleagues' attention to this: new agreements to borrow, IMF, new funding in the foreign operations bill report. This is inflationary, it is detrimental to the dollar, and it is subsidizing foreign interests as well as special banking and industrial interests here.

□ 1415

AMERICA NEEDS RECIPROCITY, NOT DUPLICITY, IN TRADE

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

Mr. PASCRELL. Madam Speaker, the supporters of fast track never discuss the massive trade imbalance which grows every year, never. This reflects job loss in America. The supporters are good, very good, at denigrating organized labor's efforts to defeat fast track. Organized labor has a vested interest. The jobs of members in various unions and the jobs in nonunion workplaces are at stake.

Why is their effort a special interest, and the expenditures of millions by multinational corporations simply ''in the best interests of the American economy?'' How can some Members of this House who vehemently defend the sovereignty of our Nation with foreign powers now surrender the oversight of the trade deal implementation to the World Trade Organization?

The WTO has just ruled in favor of Costa Rica and India on textile matters. What are we doing for our own sovereignty? Why sell us out again? Reciprocity, Mr. President, reciprocity, Mr. Speaker, not duplicity. Vote ''no'' on fast track.

COALGATE IN UTAH

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

Mr. GIBBONS. Madam Speaker, today I rise to inform my Members about Coalgate; no, not the toothpaste or the university, but another campaign scandal. In the heat of the 1996 campaign, President Clinton created the Grand Staircase-Escalante National Monument in Utah, which consisted of more than 1.7 million acres of land, an area larger than the State of Delaware.

The White House claims this monument was needed to protect one of the most pristine areas in America. However, I would contend that 62 billion tons of low-sulfur coal reserve was the real reason for this designation. The

Lippo Group, very large donors of the President's campaign, had a large financial stake in this monument, because clean Utah coal would have competed with the imported coal from Indonesia.

It is a sad day when the President would deny schoolchildren in Utah the tax revenues of $1.5 billion in coal or the royalties, to protect foreign interests and promote his own self-serving ambition. Madam Speaker, the definition of greed has truly been revealed to the American people. They deserve the truth.

PUT PEOPLE FIRST: VOTE ''NO'' ON FAST TRACK

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

Mr. LEVIN. Madam Speaker, the strategy of those of us opposing the present fast track proposal is not ''America last,'' but putting people first. This is not mainly about the power of interest groups, but the power of issues.

In the last decade, more and more of U.S. trade has been with nations with low wages and tightly controlled labor and other markets, and with lax environmental conditions. Indeed, our imports from these nations like China, India, Brazil, Mexico rose by 25 percent in the last decade, and as an administration official said yesterday, 50 percent of all United States trade will be with these nations in the near future, increasingly changing from footwear to higher-tech ware.

Instead of moving forward towards new rules of competition to meet new patterns of expanding trade, the present fast track proposal goes backwards, limiting the President's authority in important areas of labor markets and the environment. There were no such limitations on Presidents Carter, Reagan, or Bush.

This fast-track proposal is wrong. Vote ''no'' and let us go back and do it right.

END IRS PRACTICE OF MEETING QUOTAS

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

Mr. HERGER. Madam Speaker, I just cannot get over the shocking news about the IRS. It turns out that the IRS is not as bad as we thought. It is even worse. It turns out that when our friendly IRS agent appears at our door for an audit, he is not thinking about giving us a fair shake. He was not sent off from headquarters with instructions to do justice, no more, no less. No, of the things that is uppermost in his mind, the thing upon which his promotions will depend, is how much money he can extract from the poor taxpayer who is getting audited.

God help you if your friendly IRS agent is having a little trouble this month making his quota of fines. If you catch him a little behind in making his revenue quota, if his boss put a little pressure on his agents in the last weekly meeting, you may not want to expect to survive your audit without having to fork over money that you do not even have.

Madam Speaker, while the President and his friends at the Treasury Department are defending the evil ways of the IRS, this Congress is going to pass real change and put an end to this absolutely outrageous practice over at the IRS.

TRIBUTE TO HARRY M. ROSENFELD

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

Mr. MCNULTY. Madam Speaker, I rise to pay tribute to Harry M. Rosenfeld, the editor-at-large of the Albany Times Union and one of this Nation's most highly respected journalists. Harry, who was one of my constituents, has enjoyed a long and illustrious career. He came to this country as an immigrant, was educated at Syracuse University, served his Nation proudly during the Korean war, and embarked on a career in newspaper work. He served as foreign editor of the New York Herald Tribune and then moved to the Washington Post, where he directed the coverage of the Watergate story that earned the Post a much-deserved Pulitzer Prize.

In 1979, Mr. Rosenfeld came to New York's capital district of serve as editor-in-chief of the Albany Times Union and Knickerbocker News. During his tenure as editor, the newspaper won countless awards for general excellence and community service.

Because of Harry Rosenfeld's commitment to honest courageous reporting as the foundation of responsible journalism, he leaves his community a better place.

Harry retired from journalism last week. For nearly half a century he has served as the living embodiment of the loftiest principles of his profession. In his community and in his industry, he enjoys a well-earned reputation for integrity and undying devotion to the highest standards of his craft. I am proud to salute my friend Harry for his distinguished journalistic service to the cause of democracy. Thanks, Harry.

SUPPORT RADIO FREE ASIA

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

Ms. ROS-LEHTINEN. Madam Speaker, today the House will debate H.R. 2232, which will increase funding for Radio Free Asia and the Voice of America broadcasting into China. By passing this bill, we will then have continuous broadcasting to China in multiple dialects and languages.

Currently, only a few hours are broadcast and in only two languages. The increased funds will allow millions of Chinese citizens to hear the truth about their own country and the world around them. Listening to the words of truth, of freedom, of respect for human rights, of democracy is fundamental to making correct decisions.

There is no free press in China. Voice of America and Radio Free Asia tell the truth of today's news without the bias, the distortion, the lies of the Chinese propaganda machine. Our broadcast will serve as a surrogate free press in the dictators' Republic of China.

I know these broadcasts can be successful. Radio Marti, which is listened to by millions in my native homeland of Cuba, has been promoting justice and freedom, the hallmarks of our great country. Castro has tried and tried to jam its signal, but he has failed. An informed citizenry is needed for true political and economic freedom. Support Radio Free Asia today.

VOTE NO ON THE UPCOMING FAST TRACK BILL

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

Mr. BROWN of Ohio. Madam Speaker, we have heard numerous stories of dozens of deals between President Clinton and Speaker GINGRICH to ram fast-track legislation through this Congress. The killer deal was the very first deal the White House cut.

Instead of working with Democrats on positive legislation that looked to the future, the White House cozied up to the gentleman from Georgia [Mr. GINGRICH] and the gentleman from Texas [Mr. ARCHER] on a deal that betrays our values and our historic commitment to working American families and the environment.

The Archer-Gingrich bill not surprisingly would make the Republican hostility to labor and environment the U.S. agenda in international trade negotiations, a global race to the bottom. The Archer-Gingrich bill is a fast-track to the past, not to the future.

The vast majority of Democrats, 80 percent of them, oppose the Archer-Gingrich bill because we want sensible agreements that incorporate our values as Democrats, values such as clean air and clean water, values such as safe food, values such as worker rights and human rights.

As Democrats, we can do better. Vote no on the Gingrich-Archer fast-track bill.

THE LEGACY OF THIS ADMINISTRATION

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

Mr. BARTLETT of Maryland. Madam Speaker, we have really got to hand it to this administration. This is the first administration in history that has combined distinguishing characteristics and no controlling legal authority into a legal defense that the media are actually taking seriously, and then spends half the day talking about their legacy. Somehow, I think the legacy that they are likely to leave is not going to be the same legacy they have in mind.

Let us face it, when key witnesses keep turning up either dead, unwilling to testify, or hiding out in foreign countries, I do not think this is simply a question of partisan politics, despite the view repeated endlessly on ABC, NBC, and CBS that investigations into the 1996 Presidential campaign are much ado about nothing.

If there is nothing to hide, then I ask my fair-minded friends at ABC, NBC, and CBS, why are over 50 witnesses with critical information, why have they either fled the country or taken the fifth? The only scandal bigger than the Clinton-Gore campaign is the way the media have covered it since all these outrageous campaign finance violations have come to light. This, too, will be part of the legacy.

CONGRESS MUST MAINTAIN ITS INTEGRITY UP TO THE END OF THE SESSION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, as we bring this session of our responsibilities to the American people during this time of legislative activity to an end, I would ask this Congress to maintain its integrity.

There is a great deal of debate about legislation that is to be voted on and discussed this day, but I think that our Republican friends and certainly Democrats should understand that there are certain issues that need to be maintained separately from these discussions.

There is no doubt that sampling in the taking of the census in the year 2000 has been documented as the most accurate way of counting every human being. The homeless, people who are unhoused, poor people, rich people, black people, Hispanic people, Anglo people, Asian people, anyone in this country needs to be counted in this Nation. So let us not play with the census.

Let us not play with the basic rights of women across the world to family plan and preserve their families.

Let us not play with the Haitians, who are the only group who are not being allowed to stay in this country to apply for their citizenship.

Maintain the integrity of this Congress, and allow these issues to go forward on their own merits. The census must have sampling, family planning must exist, and leave the Haitians alone so they, too, have the rights of everybody else.

EDUCATION WOULD CHANGE IF WE HAD SCHOOL CHOICE

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

Mr. PETERSON of Pennsylvania. Madam Speaker, there are schools in America that turn out more criminals than young people that will go out to attend college. Would Members like a choice if their child was attending that school? I believe they would.

Madam Speaker, wealthy Americans and many Congressmen and Senators make choices every day, and our President and Vice President, they send their child to the school of their choice. Many middle-class Americans choose where they live so their children can attend a school that they know is a good school. But what about poor Americans who are stuck in a bad neighborhood with a bad school?

Eighty percent of the schools in America are good and delivering a good product. Recently we had a bill that would allow choice for the poorest of Americans. What are the Democrats in the educational establishment afraid of, that it might work? We would have a chance to change education, and education would change, if we had choice. Bad schools would close, and the children would have a chance to go to a good school.

CALLING FOR BALANCED TRADE AGREEMENTS WHICH CONTAIN PROTECTIONS FOR WORKERS AND THE ENVIRONMENT

(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, since NAFTA we have converted a $2 billion trade surplus with Mexico to a $20 billion trade deficit. In 65 percent of union organizing elections, employers have threatened to move to Mexico or to another foreign country if workers have chosen the advantages of collective bargaining.

Working people have gotten almost none of the benefits of our expanding economy, as real wages for the middle class have remained static and, for lower-income workers, have actually declined. NAFTA and fast track quite properly protect American investors who invest abroad and protect intellectual property rights, but they do not protect labor and environmental rights. They are imbalanced.

We must have balanced trade agreements that protect not only investments and intellectual property, but also labor and environmental standards if trade is to serve all our people, and if our expanding trade is not to serve as a tool to be used to deny a fair share of our economic gains from filtering down to working people and to the middle class. Reject the fast track agreement as imbalanced.

□ 1430

INVESTIGATION OF 1996 PRESIDENTIAL CAMPAIGN

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

Mr. TIAHRT. Madam Speaker, investigations into crimes that may have been committed during the 1996 Presidential campaign are about a lot more than taking foreign money. They are a lot more than just the effort to secretly get around the rules that everyone else had to follow and then worry about explaining the misdeeds after the election.

No, Madam Speaker, the liberal media attempts to downplay this scandal. These investigations are also about compromising national security, about selling out American foreign policy to the highest bidder and acting in complicity with the Communist Government of China to subvert the democratic process in the United States.

I believe that I am correct, Madam Speaker, that both Democrats and Republicans would agree that these charges are truly alarming. In fact, all Americans who believe in democracy, who believe that America should decide who should rule over America and who believe that secret money laundering operations represent political corruption at its most disgraceful, all believe that we must find out the truth about these scandals. Democracy demands it.

IN TRIBUTE TO THE LATE CLARA BOSWELL

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

Mrs. CLAYTON. Madam Speaker, in less than an hour, legions of families and friends will gather in the historic town of Edenton, North Carolina, to mourn the death and celebrate the life of one of my staff members, Clara Boswell. This devoted mother and grandmother and former principal passed suddenly, without notice, on Thursday night.

Clara's life was personified by her two favorite symbols, the butterfly and the hat. While the grief of those who will gather is heavy, I know they will be comforted by acclaiming the life and celebrating the life of Clara.

I am confident she has left a lasting impression on those who came to know her, and the principles that guided her will now serve as guideposts for those she leaves behind. Like the butterfly, she brought a free spirit, bright colors, in every place she functioned. And like the hat, she brought peace and protection to everyone she encountered.

She has been called to rest and to reside in the place of total peace. God's

finger has gently touched her, and she now sleeps. May God comfort and help her family and friends to hold on to treasured yesterdays and to reach out with courage and hope to tomorrow, knowing that their beloved is with God.

Clara has labored long. She served well. She has made a difference. She loved the butterfly. She had a free spirit. Today we put her to rest.

PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA

Mr. GEPHARDT. Madam Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 318) pursuant to rule IX and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 318

Whereas, the election contest concerning the 46th District of California should be dismissed as there is no credible evidence to show that the outcome of the election is different than the election of Congresswoman Loretta Sanchez.

Whereas, State of California authorities should continue an investigation into any questionable registration activities; and

Whereas, the Committee on House Oversight should examine voter registration procedures; and now therefore be it

Resolved, That the contest in the 46th District of California is dismissed.

THE SPEAKER PRO TEMPORE (Mrs. EMERSON). The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. BOEHNER

Mr. BOEHNER. Madam Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Ohio [Mr. BOEHNER].

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 218, nays 194, answered ''present'' 1, not voting 20, as follows:

[Roll No. 622]

YEAS—218

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stump
Sununu
Talent
Tauzin
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED ''PRESENT''—1

Wamp

NOT VOTING—20

Ackerman
Bono
Condit
Conyers
Cubin
Flake
Foglietta
Gillmor
Gonzalez
Hoekstra
Kleczka
Klug
McDermott
Riley
Schiff
Schumer
Stearns
Stokes
Taylor (NC)
Yates

□ 1454

Ms. PELOSI and Mr. MURTHA changed their vote from ''yea'' to ''nay.''

Mr. SHAYS and Mr. MCDADE changed their vote from ''nay'' to ''yea.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CORRECTION OF ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. BEREUTER. Madam Speaker, earlier today when announcing motions to suspend the rules, an incorrect number was announced for the adoption bill. The correct number is H.R. 867, not H.R. 861.

RADIO FREE ASIA ACT OF 1997

Mr. ROYCE. Madam Speaker, pursuant to House Resolution 302 and as the designee of the chairman of the Committee on Internal Relations, I call up the bill (H.R. 2232) to provide for increased international broadcasting activities to China, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mrs. EMERSON). The bill is considered read for amendment.

The text of H.R. 2232 is as follows:

H.R. 2232

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 ''Radio Free Asia Act of 1997''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency Xinhua, will supervise wire services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February of 1996 the ''Interim Internet Management Rules'', which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the internet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Radio Free Asia currently broadcasts only 5 hours a day in the Mandarin dialect and 2 hours a day in Tibetan.

(6) Voice of America currently broadcasts only 10 hours a day in Mandarin and 3½ hours a day in Tibetan.

(7) Radio Free Asia and the Voice of America should develop 24-hour-a-day service in Mandarin, Cantonese, and Tibetan, as well as further broadcasting capability in the dialects spoken in Xinjiang and other regions of the People's Republic of China.

(8) Radio Free Asia and Voice of America, in working toward continuously broadcasting the People's Republic of China in multiple languages, have the capability to immediately establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia and the Voice of America.

(9) Simultaneous broadcasting on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA.—In addition to such sums as are otherwise authorized to be appropriated for ''International Broadcasting Activities'' for fiscal years 1998 and 1999, there are authorized to be appropriated for ''International Broadcasting Activities'' $46,900,000 for fiscal years 1998 and $31,200,000 for fiscal year 1999, which shall be available only for broadcasting to China.

(b) LIMITATIONS.—

(1) RADIO FREE ASIA.—

(A) Of the funds authorized to be appropriated under subsection (a) $26,900,000 is authorized to be appropriated for fiscal year 1998 and $21,200,000 is authorized to be appropriated for fiscal year 1999 for Radio Free Asia.

(B) Of the funds under subparagraph (A), $1,200,000 is authorized to be appropriated for each such fiscal year for additional personnel to staff Cantonese language broadcasting.

(C) Of the funds under subparagraph (A) authorized to be appropriated for fiscal year 1998, $900,000 is authorized to be appropriated for additional advanced editing equipment.

(2) 1998.—

(A) Of the funds under subsection (a) authorized to be appropriated for fiscal year 1998, $11,800,000 is authorized to be appropriated for capital expenditures for the purchase and construction of transmission facilities.

(B) Of the funds under subsection (a) authorized to be appropriated for fiscal year 1998, $3,000,000 is authorized to be appropriated to facilitate the timely augmentation of transmitters at Tinian, Marshall Islands.

(c) ALLOCATION.—Of the amounts authorized to be appropriated under subsection (a), the Director of the United States Information Agency and the Board of Broadcasting Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

SEC. 4. REPORTING REQUIREMENT.

Not later than 90 days after the date of enactment of this Act, in consultation with the Board of Broadcasting Governors, the President shall prepare and transmit to Congress a report on a plan to achieve continuous broadcasting of Radio Free Asia and Voice of America to the People's Republic of China in multiple major dialects and languages.

SEC. 5. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR MIGRATION AND REFUGEE ASSISTANCE.

Notwithstanding any other provision of law, such amounts as are authorized to be appropriated for ''Migration and Refugee Assistance'' for fiscal year 1998 shall be reduced by $21,900,000 and for fiscal year 1999 shall be reduced by $6,200,000.

The SPEAKER pro tempore. Pursuant to House Resolution 302, the committee amendment in the nature of a substitute printed in the bill is adopted.

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

H.R. 2232

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 ''Radio Free Asia Act of 1997''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency Xinhua, will supervise wire services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February of 1996 the ''Interim Internet Management Rules'', which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the internet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Radio Free Asia currently broadcasts only 5 hours a day in the Mandarin dialect and 2 hours a day in Tibetan.

(6) Voice of America currently broadcasts only 10 hours a day in Mandarin and 3½ hours a day in Tibetan.

(7) Radio Free Asia and Voice of America should develop 24-hour-a-day service in Mandarin, Cantonese, and Tibetan, as well as further broadcasting capability in the dialects spoken in the People's Republic of China.

(8) Radio Free Asia and Voice of America, in working toward continuously broadcasting to the People's Republic of China in multiple languages, have the capability to immediately establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia and Voice of America.

(9) Simultaneous broadcasting on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR RADIO FREE ASIA—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for ''Radio Free Asia'' $30,000,000 for fiscal year 1998 and $22,000,000 for fiscal year 1999.

(2) LIMITATIONS.—

(A) Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $8,000,000 is authorized to be appropriated for one-time capital costs.

(B) Of the funds under paragraph (1), $700,000 is authorized to be appropriated for each such fiscal year for additional personnel to staff Cantonese language broadcasting.

(b) AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA AND NORTH KOREA.—In addition to such sums as are otherwise authorized to be appropriated for ''International Broadcasting Activities'' for fiscal years 1998 and 1999, there are authorized to be appropriated for ''International Broadcasting Activities'' $10,000,000 for fiscal year 1998 and $7,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China and North Korea.

(c) AUTHORIZATION OF APPROPRIATIONS FOR RADIO CONSTRUCTION.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as are otherwise authorized to be appropriated for ''Radio Construction'' for fiscal years 1998 and 1999, there are authorized to be appropriated for ''Radio Construction'' $10,000,000 for fiscal year 1998 and $3,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China.

(2) LIMITATION.—Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $3,000,000 is authorized to be appropriated to facilitate the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

(d) ALLOCATION.—Of the amounts authorized to be appropriated for ''International Broadcasting Activities'', the Director of the United States Information Agency and the Board of Broadcasting Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(e) ALLOCATION OF FUNDS FOR NORTH KOREA.—Of the funds under subsection (b), $2,000,000 is authorized to be appropriated for each fiscal year for additional personnel and broadcasting targeted at North Korea.

SEC. 4. REPORTING REQUIREMENT.

Not later than 90 days after the date of enactment of this Act, in consultation with the Board of Broadcasting Governors, the President shall prepare and transmit to Congress a report on a plan to achieve continuous broadcasting of Radio Free Asia and Voice of America to the People's Republic of China in multiple major dialects and languages.

SEC. 5. UTILIZATION OF UNITED STATES INTERNATIONAL BROADCASTING SERVICES FOR PUBLIC SERVICE ANNOUNCEMENTS REGARDING FUGITIVES FROM UNITED STATES JUSTICE.

United States international broadcasting services, particularly the Voice of America, shall produce and broadcast public service announcements, by radio, television, and Internet, regarding fugitives from the criminal justice system of the United States, including cases of international child abduction.

The SPEAKER pro tempore. Pursuant to House Resolution 302, the gentleman from California [Mr. ROYCE] and the gentleman from Indiana [Mr. HAMILTON] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROYCE].

GENERAL LEAVE

Mr. ROYCE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

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

There was no objection.

Mr. ROYCE. Madam Speaker, I yield myself such time as I may consume. Madam Speaker, for the last few days, the House of Representatives has been debating policy for the most important bilateral relationship the United States has, and that is our relationship with the People's Republic of China. We have heard different views on how we should deal with this emerging power. It has been a good debate, a healthy debate for us to have. I have supported the initiatives that are part of that policy for freedom in China package, because together they contribute to a well-crafted China policy, a policy which positions the United States to stand up forcefully for our values and protect our national security. For certain our relationship with China is not easy. It will be the most challenging relationship we face in the next century. Moving forward, we must have principles to guide this relationship. For one, in all our dealings with the Beijing regime, it is essential that we do not shy away from our values. This means calling the Chinese leadership on democracy and on human rights, spotlighting the organ harvesting many Members have spoken against on this floor, and acting when we can. Standing up for our values also means promoting the free flow of uncensored information, which is the lifeblood of our values that Americans cherish and wish for the Chinese people.

□ 1500

That is why I am proud to be the author of the Radio Free Asia Act of 1997.

Everyone here has heard of Radio Free Europe; that is our effort which was so effective during the cold war in bringing information to those stuck behind the Iron Curtain. At that time we told the people of Eastern Europe what was happening in their own countries, but it was not really us telling them. It was the voices of Hungarians and Czechs and Poles broadcast on Radio Free Europe, telling their fellow countrymen about the politics and other developments in their home countries, and through this surrogate broadcasting Hungarians and Czechs and Poles and others were able to learn about human rights abuses and repression in their own countries and to ask why.

This information transmitted through the airwaves was tremendously effective in bringing about the demise of totalitarian regimes in these countries. How do we know that?

Lech Walesa of Poland and Vaclav Havel and Alexander Dubcek of Czechoslovakia, men who pulled the foundation out from communism, have said that Radio Free Europe did more than anything else to change those Communist regimes of Eastern Europe. It is clear, information is deadly to dictators. The Chinese people deserve no less of an effort from us.

Radio Free Asia has been up and running, breaking official silence in Asia for over a year now. It is patterned after Radio Free Europe. Radio Free Asia targets countries where Asians are unable to hear about developments in their own country, unable to hear about what is happening in their own capitals and even in their own cities and towns. Some 95 percent of Radio Free Asia's programing focuses on people and events within that targeted country. So while no Lech Walesa has emerged in China, I believe Radio Free Asia is one of the most powerful tools we have for promoting democracy and promoting human rights in China.

This bill will provide the means to broadcast 24 hours a day into China and Tibet and to expand broadcasting in North Korea. This round-the-clock broadcasting in Mandarin, Cantonese, Tibetan, and other dialects will be an invaluable source of uncensored information for the Chinese people, information they otherwise would be denied.

What do the Chinese people hear on Radio Free Asia? Weekly commentators, a discussion of topical issues with Chinese journalists. They hear China In Perspective, which deals with a range of issues, including the Chinese media; politics in the media; Tibet Today, a discussion of current issues in Tibet; ''Voices of Current Party Members'', which is a weekly discussion with current party members hosted by a former editor of the People's Daily; and they have their own ''Crossfire'' show that they hear as well.

That sounds like pretty standard news and information, right? But it is not standard in a totalitarian country. And so the Beijing regime has complained. A Chinese Foreign Ministry spokesman recently denounced Radio Free Asia, saying it was using freedom of speech as an excuse to interfere in China's internal affairs. Freedom of speech and interference in internal affairs, and the Chinese Government has punished those caught listening to Radio Free Asia.

It also has tried to shut out these broadcasts through jamming. This jamming is not too effective though, and it will be less effective after the new transmitter approved by the Radio Free Asia Act of 1997 is built.

The fact is that there is no denying Radio Free Asia. Just look at this map of China. Each orange dot on this map represents a significant cluster of letters received by Radio Free Asia's Chinese listeners. Up and running only a little over a year, Radio Free Asia has received hundreds of these letters, many of them from students, which indicate that young people are listening as well, and let me just read sections of two.

This is from a worker in a labor union written this past September. He says, ''every day in the past 8 months, 2 hours of my day belong to Radio Free Asia, which brings a fresh spring breeze to the stifling and repressed China and lets us see the hope for a free and democratic China.''

Another letter written 2 months ago, quote: ''Like most of my Chinese countrymen, I did not know what press freedom was and what human rights were, did not even know that Taiwan called itself the Republic of China and that the Dalai Lama even was awarded the Nobel Peace Prize. Then I bought a radio set, which made me hunger knowledge as I never have before.''

I cannot imagine more powerful words, and I have nothing to add to those words.

Madam Speaker, I reserve the balance of my time.

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

I rise in support of the bill. The bill authorizes $30 million for Radio Free Asia for fiscal year 1998, $22 million for fiscal year 1999. It authorizes an additional $10 million for enhanced VOA broadcasting in China and North Korea for fiscal year 1998, and $7 million for the same purpose in fiscal year 1999. The bill also authorizes an additional $10 million in fiscal year 1998 and $3 million for fiscal year 1999 for radio construction in support of enhanced broadcasting to China.

The bill requires that within 90 days the President and the Board of Broadcasting Governors submit to the Congress a plan to achieve 24-hour broadcasting of Radio Free Asia and Voice of

America to China in multiple dialects and languages.

The authorization funding for Radio Free Asia in this bill is identical to that provided in the State Department authorization conference language, so in a sense this is an issue that has already been agreed upon. There is additional authorization here for Voice of America broadcasting in China and North Korea and for radio construction that represents an increase in authorization levels from the State Department authorization conference language or the Commerce-Justice-State conference contemplated funding levels.

Insofar as I know, the administration has no objection to this bill. It did have some problems with the original bill. I think they have been addressed in the markup of the bill.

I totally agree with the sponsors of the bill that the promotion through Radio Free Asia of democracy and human rights is an extremely important element of U.S. foreign policy and one that we should support. I urge then the support for the bill.

Madam Speaker, I reserve the balance of my time.

Mr. ROYCE. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations.

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

Mr. GILMAN. Madam Speaker, I am pleased to rise in support of H.R. 2322 sponsored by the gentleman from California [Mr. ROYCE]. This measure is an important enhancement to our international broadcasting to Asia.

Broadcasting to Asia, and particularly to China, is vital to the spread and support of democracy and the freedom of expression. I fully support the measure to expand broadcast capabilities of Radio Free Asia and the Voice of America through additional funding for personnel, for transmitters and for other broadcast requirements.

I commend the gentleman from California [Mr. ROYCE], the distinguished chairman of our Committee on International Relations Subcommittee on Africa for his foresight in drafting this bill. This additional funding that is supported by the Speaker and the President will increase the opportunity for the peoples living under communism in Asia to hear news and other programing untainted by State news services. Mr. ROYCE's worthy proposal will increase transmissions in Mandarin, Cantonese, Tibetan languages and other dialects. It is hoped that when we work with the Senate in conference on this proposal, we will not forget to add the Uygers in East Turkestan.

I commend the gentleman and urge our colleagues to support this measure.

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

Mr. ROYCE. Madam Speaker, I yield 3½ minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER], chairman of the Subcommittee on Asia and the Pacific.

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

Mr. BEREUTER. Madam Speaker, I would like to begin with an announcement. As some of the Members know, the Speaker appointed a bipartisan task force on the Hong Kong transition, were to give a quarterly report, and I want my colleagues to know that the first quarterly report or a summary thereof will be in the CONGRESSIONAL RECORD for today.

Madam Speaker, this legislation is very important. I rise in strong support of it and commend my distinguished colleague, the gentleman from California [Mr. ROYCE], for introducing this legislation. Madam Speaker, as mentioned this legislation authorizes appropriations specifically for broadcasting to China and North Korea and construction of broadcasting facilities. The purpose of this is to enhance America's ability to broadcast, increase the number of languages and dialects in which Radio Free Asia can broadcast.

As the chairman of the subcommittee, my colleagues might be interested in knowing that in order to assure that accurate, timely, uncensored news and information gets to China, Vietnam, Burma, Cambodia, North Korea and the rest of East Asia, that it is important to support the activities of Radio Free Asia and the Voice of America. Radio Free Asia can provide news to those who otherwise cannot obtain it because many of the governments in the region systematically control the flow of information to their own citizens.

Currently United States broadcasting in Chinese dialects totals only 7.5 hours daily by Radio Free Asia and 13 hours daily by Voice of America. This will permit expansion of broadcasting to 24 hours per day in Mandarin Chinese, plus expanded broadcasting in Cantonese, Tibetan, and other dialects. The combined Voice of America and Radio Free Asia broadcast to the region will provide listeners with a full-service broadcast covering local, national and international news, together with U.S. news and discussion of foreign policy. This would be the first around-the-clock broadcasting in Mandarin to China by any nation.

This resolution would also support one-time expenditures required to ensure reliable transmission of broadcasts to listeners in China and North Korea. This includes the purchase, modification, and operation of a transmission station in Saipan. Actually I think it is Tinian, an United States territory currently providing the strongest broadcast signal to China. The transmitter would also give Radio Free Asia a permanent transmission site, something it now lacks. The increased funds will also go to augment relay stations that carry the message on to China and other Asian countries.

Madam Speaker, in a world where Chinese military and diplomatic influence is growing, it is useful to remember the lessons of Radio Free Europe. Diplomats may have dismissed those broadcasts, but ordinary people listened. Eventually it was these ordinary people who were able to change those Communist systems.

The people of Asia who live under authoritarian regimes deserve no less of a commitment from the United States. If we are serious about spreading the voice of democracy to China, Vietnam, Cambodia, North Korea, Burma, and other authoritarian States in East Asia, this legislation assures that the message of democracy reaches the broadest possible audience.

In conclusion, Madam Speaker, this Member again would like to commend the distinguished gentleman from California [Mr. ROYCE] for his dedication and assistance in making this important increase in funding for Radio Free Asia and the Voice of America. It is an initiative which this Member has advocated in the House Committee on International Relations and elsewhere, and I thank this gentleman for bringing it to fruition.

Mr. HAMILTON. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Madam Speaker, I thank my good friend and fellow Hoosier from Indiana for yielding this time to me, and I rise in strong support of this legislation.

I think this legislation has been explained very well by Members on both the Republican and the Democratic side. This bill authorizes $30 million for Radio Free Asia for fiscal year 1998 and $22 million for fiscal year 1999. As importantly, the bill authorizes an additional 10 million for enhanced VOA broadcasting in China and in North Korea for fiscal year 1998 and 7 million for the same purpose for fiscal year 1999.

As we have talked, Madam Speaker, this past week about American values, about human rights, about putting emphasis on these kinds of things in our very important bilateral relationship between the United States and China, this bill, I think, is at the crux of many of the things that the United States stands for.

□ 1515

We have engaged, I think, the past 2 weeks, when Jiang Zemin visited this country, in what the President has very appropriately called constructive engagement.

Now, there are some in this body that feel like we should not engage with the Chinese. I personally strongly support the President's constructive engagement. That means that you sit down and listen to one another, you meet with one another, and, at times, you strongly disagree with one another.

There is no better example, and I say to my colleagues on constructive engagement, there is no better example

of this than when the President was having a press conference with Jiang Zemin last week and a reporter asked them about Tiananmen Square. And Jiang Zemin said they did, in fact, what they had to do to restore economic and social stability.

And then the President had his turn, and the President very forcefully said, ''I disagree, and you did the wrong thing. You did not do what was just, you did not stand up for human rights, and you will continue to be isolated in the world if you engage like that.''

That is constructive engagement. I think in the most important bilateral relationship that our two countries will engage in, the Chinese and the American people in the next 20 and 30 and 50 years, the President's policy is right on the mark.

Now, I also think that we have engaged in some very constructive votes this past week. I personally have voted to stop the coerced abortions, and I applaud this body for that. I have voted to more prominently monitor human rights, and I applaud this body for that. I encourage more religious freedom in China. I think that these are the kinds of things we need to engage in with the Chinese, constructive engagement, and not destructive rhetoric.

I applaud the author of this bill, and I strongly encourage my colleagues to support it.

Mr. ROYCE. Madam Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Madam Speaker, I certainly thank the gentleman from California for yielding me time.

Madam Speaker, as we bring this China package to a close, I would just once again like to thank all of these people who helped make this happen, the gentleman from California [Mr. COX], the gentleman from New York [Mr. GILMAN], the gentleman from New Jersey [Mr. SMITH], the gentlewoman from California [Ms. PELOSI], the gentleman from Missouri [Mr. GEPHARDT] on the other side of the aisle, and all of the rest of the Members and staff who have been so committed on this for such a long time.

This has been a grueling process, yes, it has; several days on the floor, and months, even years of work, by the people that I have just mentioned.

But for those who are fatigued, and I certainly am, we must remember, what we endure is nothing compared to what the people of China have endured on a daily basis, every single day throughout the 48-year reign of the Communists in that unfortunate country, and they are the reason we have been here for the past several days with this very, very vital legislation, for we all know that when the people of China are free, America and China will develop a long-lasting friendship, and that is the way it ought to be, based on respect, based on trust and the mutual interests of 1.5 billion people.

That is why it is fitting that we end this process with the gentleman from California [Mr. ROYCE], and I commend the gentleman from California [Mr. ROYCE] on this bill to enhance the capabilities of Radio Free Asia and the Voice of America to broadcast the truth to the Chinese people.

Madam Speaker, few things could be more heartening than to hear the stories from the victims of Communist repression in the former Soviet Union about how Radio Liberty about how Radio Free Europe and the Voice of America kept their hopes alive, gave them a beacon of hope during their darkest hours behind that Iron Curtain, and now they are free. Awareness of the truth and the knowledge that someone else really cared about them kept these people going under the worst of circumstances.

Madam Speaker, this is real engagement, engagement with the people of China, not with those Communist thugs who repress them, who imprison them, who beat them and give them a bad name abroad with their missile diplomacy and rogue activities. And we all know what we have been talking about for the last 3 weeks.

Radio Free Asia and the Voice of America are underfunded. They are only broadcasting a few hours a day and only a couple of dialects. This bill rectifies that by giving $50 million for this year alone.

Madam Speaker, if the Committee on Appropriations sees fit to provide this money, and we all here will see they will, I can even suggest a perfect offset. Thursday night, this House approved my bill to oppose the World Bank's soft loans to the Communist Government of China by an overwhelming majority.

In 1996, the World Bank loaned about $500 million to these thugs in Beijing. Since the United States owns about 15 percent of the World Bank, that means American taxpayers directly gave the Communist dictators in Beijing $75 million of the taxpayers' money in interest-free, 35-year loans, and a 30-year grace period. We can put an end to that.

Madam Speaker, I thank the gentleman for yielding me this time. And this is perhaps the fitting end to these 10 bills that we have brought on this floor. The gentleman is to be commended. Let us come over here and vote unanimously for this vital piece of legislation.

Mr. ROYCE. Madam Speaker, I yield 2½ minutes to my colleague, the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Speaker, I rise in strong support of this amendment and Radio Free Asia. I would like to compliment the gentleman from California [Mr. ROYCE], my colleague and fellow Orange Countian, who has done so much over the years on this issue. He has made it real.

Ed, congratulations for a job well done.

There would not be a Radio Free Asia in the works and heading toward going on the air if it was not for the fact that the gentleman from California [Mr. ROYCE] put in so much time and effort on this commendable piece of legislation.

During the cold war, we must remember that it was not our weapons and technology alone that won the day and ushered the world into a new era of peace and prosperity. And peace and prosperity is yet to prevail, but we have more opportunities for that than we have had during my entire lifetime.

While the courage of the Armed Forces and their technological edge was certainly an imperative that we needed during the cold war, our commitment to Radio Free Europe, the Voice of America, and Radio Liberty kept alive the flame of freedom in the hearts of people who were oppressed from the Balkans to the Baltics. This flame was in the hearts of America's greatest allies.

Our greatest allies in the cold war were those people who lived in Communist countries. And when they knew that we did not forget them, the flame lived on and eventually that conflagration brought down the Communist empire. With communism we were able to destroy the wills of the leadership by mustering support among the people they repressed.

The Good Book tells us that the truth will make you free. Today, with the Soviet collapse, it is our turn now; we must turn to finish the job. We must show the people of Asia that we have as great a commitment to their freedom as we had to the people of Europe.

Radio Free Asia will affirm to the good people throughout Asia that we are on their side, and they need this message when they can only see U.S. corporations exploiting their cheap labor, exploiting their environmental laws that permit corporations to come in and exploit the environment. When they see these, they need to be reaffirmed.

The people of Asia need a confirmation that we are on their side, and that is what Radio Free Asia will do. The Ughyurs, for example, in East Turkmenistan, now live under the heel of the Communist dictatorship in Beijing. We need to broadcast to those and other people, whether they be in Burma, Vietnam, or elsewhere, we believe in freedom, and if we hold firm to our principles in the United States of America, those principles of our Founding Fathers, we will finish the job of ending the cold war, and indeed the world will have a new era of peace and prosperity and freedom.

Mr. HAMILTON. Madam Speaker, I yield 3 minutes to the distinguished gentlewoman 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. I, too, rise this afternoon to give my appreciation for the author of this legislation

and as well the ranking member of this committee for coming together around a very instructive and creative opportunity for us to recognize and to commemorate, if you will, the results of Radio Free Europe.

I can almost say to this House, need I say any more, all of us who have grown up in the World War era are aware of the impact of Radio Free Europe. In fact, it became the symbol of freedom. And as we listened ourselves, hearing about stories and reports on Radio Free Europe, needless to say, those voices that were being heard were impacting on smaller ears, younger people, people who thought that freedom now could be a reality for them.

Why not Radio Free Asia? In the time of child labor, religious persecution, and the denial of free thought, in one of the biggest markets in this world, do we not have the responsibility to say that economics is important but the free thought of those who live under those systems has to be of primary importance to those of us who claim capitalism on the economic side but freedom of thought and religion on the social justice side?

Yes, many of us have supported most favored-nation and we recognize through our corporate community that Southeast Asia is an attractive market. But can we stand by while the dollars flow in and out, while the markets increase, and yet there are people in these nations who cannot gather in their homes to worship their God?

There are people in these nations who cannot think freely for themselves to worship as they desire. And, yes, there are those who have been called to claim the message of whatever faith they believe in who cannot speak.

Radio Free Asia has to exist. We must use it responsibly, however. It cannot be accusatory. It cannot be threatening. It should not be where it is decisive. We simply have to let them hear the truth. We simply have to have them hear the voices of reason. We simply have to have those voices of free thought who can speak about the issues in a free and thoughtful manner be projected on those younger ears, those ears of those who have not heard.

I think Radio Free Asia will tell the real story. Once you hear and once you understand, then you will act. That is what this whole opportunity for Radio Free Asia will generate, and that is a hearing and understanding and an acting.

Madam Speaker, I would simply say that the dollar is not the almighty dollar as some of us have heard it claimed. It must be balanced with the freedom of speech and understanding, the freedom of religion, the freedom of thought. And out of that comes a real appreciation for where you live, and the value of the dollar diminishes when you have freedom for all.

I thank the author of the bill and encourage all of my colleagues to vote for this very timely legislation.

Mr. ROYCE. Madam Speaker, I yield 2 minutes to my colleague, the gentleman from Arizona, [Mr. SALMON], who speaks Mandarin and has spent time in China,.

Mr. SALMON. Madam Speaker, I thank the gentleman for introducing this badly needed piece of legislation. In fact, I do not think I am alone in believing that this alone will probably go further than almost anything else that we have done this week or probably this year.

Mr. Rohrabacher made a comment, in fact quoted my favorite scripture from the New Testament, when he said, you shall know the truth and the truth shall make you free. Unfortunately, in China the truth does not find a way of filtering itself down to the common people on a daily basis.

I saw some footage last week when President Jiang Zemin visited these United States about the coverage in China, and it is interesting, because as we know, in watching our media, when Mr. Jiang went from place to place, there were numerous protests regarding various policies, regarding policies regarding Tibet, regarding policies dealing with religious worship, regarding policies dealing with forced abortion. In fact, it was a very mixed bag of reviews. Most of the stops that he made had very, very angry people.

But none of that was filtered down to the common citizens in China. They never heard that information. They think everything is hunky-dory and we all love the guy.

That kind of information has to get down to the people so they do not give way to despondency, so they can keep some hope, some courage, that freedom is very much alive here in this country and we are still plugging for them.

When we continue with MFN, which a majority of Members in this body supported, sometimes I wonder if they get a mixed message, a wrong message. Many of us who support MFN also care deeply about human rights. We don't believe it is OK to turn a deaf ear to the human misery and suffering going on in China. We believe it is time for tough talk.

As the gentleman from Indiana [Mr. ROEMER] said, the President made some very tough statements last week, as he should have. That needs to be filtered town to the rank and file. They need to know that we care; they need to know we are with them, that we believe in freedom and that we believe it will happen if we persevere. That is what constructive engagement is all about.

Congratulations, Mr. ROYCE. This bill is going to go a long way to providing truth for the Chinese people.

Mr. ROYCE. Madam Speaker, I yield 2¼ minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

□ 1530

Mr. HUTCHINSON. Madam Speaker, I rise in strong support of H.R. 2232, and I want to express my appreciation to the gentleman from California for his leadership on this very important issue.

As a new Member of Congress, I believe this legislation involves one of the most important issues we have dealt with. My colleagues might ask why is that the case, and it is because it involves the fundamental issues of freedom and liberty.

I think about my father, who is now deceased, but when wartime came around, he was past draft age, he had 4 children, he did not need to go, but he went to serve in our Armed Forces. Why did he go, as so many others went? Because it was not necessarily what was happening in America, but it was about what America stood for; it was about liberty, it was about freedom, it was about supporting that voice around the world.

I think it is what America stands for. Today, the Voice of America, Radio Free Asia, needs to be strengthened in China. Madam Speaker, $10 million for the Voice of America, $20 million for Radio Free Asia. It is money well spent.

I think about Tiananmen Square and the images that that portrayed across America of those Chinese students, in their way, standing for freedom and speaking against a repressive regime. What can we do to help them?

Well, there are some things that we can do in these bills that we have passed, and China sanction legislation represents that. But there is one thing that government cannot stop and that is the Voice of America, it is the voice of freedom, the voice of liberty. Truth, truth cannot be shut out. If we can get that message in, then we can encourage those people who are still being repressed; we can raise the voice and awareness of democracy.

There is a temptation in America today that we should withdraw from world affairs, that we do not need to be concerned with what happens in China, and I reject that argument. I believe that we still need to be the leader of the free world. As Alexander Solzhenitsyn said, who is the Russian dissident who spent years in the gulag, ''If America does not lead the free world, then the free world will not have a leader.''

This is a small burden to pay for the price of liberty. We should support it enthusiastically. I urge my colleagues to support it.

Mr. HAMILTON. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Madam Speaker, I thank the gentleman from Indiana for his graciousness in yielding me this time. I commend him and the gentleman from California [Mr. ROYCE] for their tremendous leadership in bringing this bill to the floor of the House of Representatives.

Madam Speaker, when we complete this series, we will have passed nine very significant bills designed to effect change in China. While I am biased on this matter, I believe this is the best of

the nine, and I believe that because I think it has more potential than any of the others in really providing for change in Chinese society.

We know this because of the record of Radio Liberty and Radio Free Europe during the cold war. Madam Speaker, surrogate radios are not propaganda, they are the beaming of truth and ideas and news into censored societies, societies where those ideas from outside are not permitted. And under Radio Free Asia, the concepts of freedom, of democracy, of free enterprise, of the rule of law, of an independent judiciary, the very values that we as Americans believe in so deeply, are reaching their way today into closed societies in Asia.

The ideas of Jefferson and Lincoln, the ideas that cannot be heard there, the ideas of their own people in believing in these values are getting through, and this legislation will cause that to be ramped up 3 times what we are doing today, and will affect not only China, but Burma, Vietnam, Tibet, North Korea, Laos, places where autocratic regimes hold sway.

Madam Speaker, this is cost-effective legislation and $40 million will provide for construction of new antennae and broadcasting facilities and the broadcasts themselves. Through Voice of America and Radio Free Asia, and let me say, Madam Speaker, that Voice of America is equally important in doing a marvelous job for this country all across this world. It is simply a different approach than the surrogate radios. Both are needed. We will be able to broadcast 24 hours a day in Mandarin, more broadcasts in Cantonese. This is exactly what we need to be doing.

Madam Speaker, 3 years ago myself and Helen Bentley conceived Radio Free Asia. Senator BIDEN picked up this matter over in the Senate and came aboard, and we passed legislation into law, and today Dick Richter and his very able staff are making a real difference in that part of the world.

The concept of beaming truth and uncensored news and information and ideas and values will change these closed societies, will make a difference in the lives of the Chinese people and the people of Burma and Vietnam and other places in Europe. They will do so at a much less cost than any other approach, and with tremendous effectiveness. I commend the gentleman from California [Mr. ROYCE]; I commend the gentleman from New York [Mr. GILMAN]; the gentleman from Indiana [Mr. HAMILTON]; the gentleman from Nebraska [Mr. BEREUTER]. All of them have provided tremendous leadership in making this happen.

This is extremely important legislation that will make a true difference in this world, and I commend it to all Members.

Mr. ROYCE. Madam Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. COX], chairman of the Policy Committee, a colleague who has spearheaded the Policy for Freedom package.

Mr. COX of California. Madam Speaker, I would like to thank especially the gentleman from California [Mr. ROYCE]. I want to commend the sponsor of this vital bill, my colleague from California, the chairman of the Committee on International Relations Subcommittee on Africa, for his leading role in policymaking. Prior to his committee chairmanship on the Subcommittee on Africa, he was the vice chairman of the Subcommittee on Asia and the Pacific. He went with the Speaker of the House this year to the People's Republic of China, to Taiwan and to Hong Kong, and today, after literally years of work, he is bringing to us this bill which is rightly praised by his colleagues on both sides of the aisle.

Radio Free Asia builds on Justice Louis Brandeis' great axiom of civil liberties, that sunshine is the best disinfectant. That is what this is all about. That is what in fact makes our system so wonderfully resilient.

Driving to the Capitol on a recent day, listening to our local news radio station, WTOP, I heard no fewer than 3 separate China Moments, China Moments paid for by government-owned firms in the People's Republic of China. They lionized President Jiang Zemin. They hyped Communist rule in China. They propagandized in the best Madison Avenue style that money can buy, and I listened to it, because I am an American.

The Government of the People's Republic of China can talk directly to us as Americans whenever they wish to do so, through their own magazines, which they do in this country, through the Internet, through talking heads on television and via authentic, unbiased, competitive news media in our country. Information, not just in America, but in the world, is the oxygen of freedom, and at the same time, censorship is the staff of life for a dictatorship. The People's Republic of China's Government knows this full well, and as a result, control and suppression of information is of paramount priority for them.

The PRC's oligarchy controls all newspapers, all radio, all television, through suffocating direct ownership or, just as stifling, censorship and regulation. It controls informal flows of information through the pervasive use of wiretapping, informants and surveillance, and it is even building an infrastructure so that the state in the 21st century can control the Internet. It is now seeking to jam broadcasts of Radio Free Asia and the Voice of America, an issue that our leadership raised directly with President Jiang when he was here in the Capitol just days ago.

The bill of the gentleman from California [Mr. ROYCE]) is going to allow 24-hour-a-day broadcasts of Radio Free Asia in Mandarin, Cantonese and Tibetan as well as broadcasting in other major dialects. It will allow the creation of a Cantonese Language Service with 16 journalists. I strongly commend this bill which will let sunlight shine into every corner of China.

When Jiang Zemin visited the United States of America, he went to visit the Liberty Bell, and he read the Biblical verse on the Liberty Bell that reads: ''Proclaim liberty throughout the land unto all the inhabitants thereof.'' That is what Radio Free Asia will do in Communist China.

Let freedom ring across the length and breadth of China, Madam Speaker. Pass this bill.

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

Mr. ROYCE. Madam Speaker, I want to thank our colleague, the gentleman from California [Mr. COX] and his able staff, and I would like to thank the gentleman from Illinois [Mr. PORTER], who promoted Radio Free Asia over the years. A tremendous amount of work has gone into this effort. We have had a long and thorough debate throughout the last few days. There have been differences, but the Chinese people are yearning for information; not propaganda, but unbiased information, that is all. So I hope bolstering Radio Free Asia is something we can all support. This program has the opportunity to provide more than 1.4 billion, one-fourth of the world's population, with a daily dose of truth.

I would like to close my time by reading one last letter Radio Free Asia received from one of its Chinese listeners. ''Congratulations on the first anniversary of your Mandarin broadcasts. I am one of your listeners writing to offer my thanks and congratulations. You have worked so hard and during this last year you have won some great victories. Here is hoping that your station in the future will gain a foothold in Asia and the world, and not fear cruelty and inhumanity.''

Madam Speaker, in closing, let me yield 3 minutes to my distinguished colleague, the gentlewoman from San Francisco, CA [Ms. PELOSI]).

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding me this time. I intend to yield back so that he can close, because he has worked so hard on this issue. But I will take a little bit of the time, if I may.

I thank my colleague the gentleman from California [Mr. ROYCE] for his leadership in bringing this important bill to the floor. It is appropriate that this piece of legislation be the last in this series of China bills, because it is a banner issue that we treat the people in Asia, Radio Free Asia in Asia and in China the way we conducted our approach to people in Eastern Europe throughout the cold war.

The gentleman from California [Mr. COX] was instrumental in putting a package together which had great consensus in this body. There were some of us who thought we could do more, but my colleague can prove us wrong by making these bills long, and then making these issues policy.

The leadership of the gentleman from California [Mr. COX] and the gentleman from California [Mr. ROYCE] and the gentleman from New York [Mr. GILMAN] and others enabled us to call to the attention of our colleagues and to our country the concerns that we have about the United States-China relationship. Most certainly we believe in engagement, but it must be effective engagement, that instead of contributing to an increased trade deficit and proliferation of weapons of mass destruction with impunity and ignoring of the repression in China, instead, that effective engagement would make the world safer, the trade fairer, and people freer. And Radio Free Asia, the Radio Free Asia part of this package is further to the point of making people freer.

So many people have told us, and I know that my colleagues have addressed this, that in the course of the cold war their consolation was Radio Free Europe, that people in the outside world had not forgotten them, that we did respect their aspirations to live in a freer society. It was true then in Europe, it is true now for Asia, and we reject the notion that democratic freedoms and individual human rights are Western values. Indeed, they are universal values written on the hearts of men. The people in China who aspire for a freer China have quoted Thomas Jefferson, really quoted Thomas Jefferson. They have lived his words, not mocked them, as President Jiang did when he came here.

□ 1545

They have fought, risked their personal lives, the security of their families, and, indeed, their lives for principles that we as a country have advocated.

We say that promoting democratic values is a cornerstone of our foreign policy. If indeed it is in the world, it must be also in China. Radio Free Asia is the mechanism for us to give some encouragement to those who take such risks for freedom. Those people are the legitimate heirs of our Founding Fathers. For that reason, I commend my colleague for his leadership.

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

Madam Speaker, for the sake of freedom in China and throughout Asia, I urge my colleagues to support H.R. 2232, as amended, the Radio Free Asia Act of 1997.

Mr. KIM. Madam Speaker, I rise in strong support of H.R. 2232, a bill to authorize additional funds for Voice of America broadcasts in Chinese and Korean.

As a young boy growing up in Seoul during the Communist invasion, I can remember huddling around the radio with my family listening to these Voice of America broadcasts. In occupied Seoul, VOA was a prime source of news and inspiration in desperate times by providing timely and accurate news, unfiltered by our North Korean oppressors.

Today, North Korea is the most isolated, closed society in the world. The Communist regime maintains tight control of the dissemination of information within North Korea. Our VOA broadcasts are the people's lifeline to outside news and information, and otherwise available.

Several weeks ago, I had the opportunity to meet with two North Korean defectors who were visiting Washington. They told of how North Koreans—desperate for real news from the outside world—risk their lives to listen to VOA broadcasts. If found by North Korean authorities, they face certain execution on the spot. Yet thousands surround secret, miniature radios listening to our VOA broadcasts.

Madam Speaker, VOA broadcasts to China and North Korea provide those people with their primary source of accurate news and information about events in their country and around the world.

I urge my colleagues to support this bill.

Mrs. LINDA SMITH of Washington. Madam Speaker, I rise today in support of H.R. 2232, the Radio Free Asia Act authored by Congressman ED ROYCE. I believe this legislation is one of the most important pieces of the China package that the House of Representatives has been considering this week because it gives people hope. It is the most tangible way for the Chinese people to learn about the democratic rule of law, human rights, and current events around the world. It will also audibly demonstrate the aspirations of the American people to have a positive relationship with China as we enter the 21st century.

The Radio Free Asia Act is a direct counterpoint to the oppressive policies of the Chinese Government. The lack of a free flow of information within China makes it all the more important that the broadcasts of Voice of America and Radio Free Asia are heard loud and clear. While the government of China can stifle their own press and attempt to jam our broadcasts, by increasing the number of hours on the air as well as the variety of dialects, a message of hope and freedom will be heard by countless millions.

My colleague, Congressman FRANK WOLF, recently came back from a trip to Tibet and he reported that the broadcasts of Radio Free Asia were a great source of encouragement to the Tibetan population. The least that we can do is to ensure that these broadcasts continue by providing the necessary funds to sustain and increase these broadcasts.

I urge my colleagues to join me in passing the Radio Free Asia Act.

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

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to House Resolution 302, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. ROYCE. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5(b) of rule I, further proceedings on this matter are postponed.

DESIGNATION OF THE HONORABLE CONSTANCE A. MORELLA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS FOR REMAINDER OF FIRST SESSION OF 105TH CONGRESS

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

WASHINGTON, DC,
November 9, 1997.

I hereby designate the Honorable CONSTANCE A. MORELLA to act as Speaker pro tempore to sign enrolled bills and joint resolutions for the remainder of the first session of the One Hundred Fifth Congress.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The Speaker pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee on Appropriations and ordered to be printed.

Washington, DC, November 4, 1997.

Hon. NEWT GINGRICH,
Speaker, United States House of Representatives, Capitol Building, Washington, DC.

DEAR SPEAKER GINGRICH: On Wednesday, October 29, 1997, the Committee on Transportation and Infrastructure, pursuant to 40 U.S.C. §606, approved fifteen resolutions authorizing appropriations for federal buildings and leased space. Please find enclosed copies of these resolutions.

With warm regards, I remain,
Sincerely,

BUD SHUSTER,
Chairman.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Such rollcall votes, if postponed, will be taken later today.

VETERANS' BENEFITS ACT OF 1997

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 714) to extend and improve the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs, to extend certain authorities of the Secretary of Veterans Affairs relating to services for homeless veterans, to extend certain other authorities of the Secretary, and for other purposes, as amended.

The Clerk read as follows:

S. 714

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Benefits Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
TITLE I—EQUAL EMPLOYMENT OPPORTUNITY PROCESS IN THE DEPARTMENT OF VETERANS AFFAIRS
Sec. 101. Equal employment responsibilities.
Sec. 102. Discrimination complaint adjudication authority.
Sec. 103. Assessment and review of Department of Veterans Affairs employment discrimination complaint resolution system.
TITLE II—EXTENSION AND IMPROVEMENT OF AUTHORITIES
Sec. 201. Native American Veteran Housing Loan Program.
Sec. 202. Treatment and rehabilitation for seriously mentally ill and homeless veterans.
Sec. 203. Extension of certain authorities relating to homeless veterans.
Sec. 204. Annual report on assistance to homeless veterans.
Sec. 205. Expansion of authority for enhanced-use leases of Department of Veterans Affairs real property.
Sec. 206. Permanent authority to furnish noninstitutional alternatives to nursing home care.
Sec. 207. Extension of Health Professional Scholarship Program.
Sec. 208. Policy on breast cancer mammography.
Sec. 209. Persian Gulf War veterans.
Sec. 210. Presidential report on preparations for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction.
TITLE III—MAJOR MEDICAL FACILITY PROJECTS CONSTRUCTION AUTHORIZATION
Sec. 301. Authorization of major medical facility projects.
Sec. 302. Authorization of major medical facility leases.
Sec. 303. Authorization of appropriations.
TITLE IV—TECHNICAL AND CLARIFYING AMENDMENTS
Sec. 401. Technical amendments.
Sec. 402. Clarification of certain health care authorities.
Sec. 403. Correction of name of medical center.
Sec. 404. Improvement to spina bifida benefits for children of Vietnam veterans.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EQUAL EMPLOYMENT OPPORTUNITY PROCESS IN THE DEPARTMENT OF VETERANS AFFAIRS

SEC. 101. EQUAL EMPLOYMENT RESPONSIBILITIES.

(a) IN GENERAL.—(1) Chapter 5 is amended by inserting at the end of subchapter I the following new section:

''§ 516. Equal employment responsibilities

''(a) The Secretary shall provide that the employment discrimination complaint resolution system within the Department be established and administered so as to encourage timely and fair resolution of concerns and complaints. The Secretary shall take steps to ensure that the system is administered in an objective, fair, and effective manner and in a manner that is perceived by employees and other interested parties as being objective, fair, and effective.

''(b) The Secretary shall provide—

''(1) that employees responsible for counseling functions associated with employment discrimination and for receiving, investigating, and processing complaints of employment discrimination shall be supervised in those functions by, and report to, an Assistant Secretary or a Deputy Assistant Secretary for complaint resolution management; and

''(2) that employees performing employment discrimination complaint resolution functions at a facility of the Department shall not be subject to the authority, direction, and control of the Director of the facility with respect to those functions.

''(c) The Secretary shall ensure that all employees of the Department receive adequate education and training for the purposes of this section and section 319 of this title.

''(d) The Secretary shall, when appropriate, impose disciplinary measures, as authorized by law, in the case of employees of the Department who engage in unlawful employment discrimination, including retaliation against an employee asserting rights under an equal employment opportunity law.

''(e)(1)(A) Not later than 30 days after the end of each calendar quarter, the Assistant Secretary for Human Resources and Administration shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report summarizing the employment discrimination complaints filed against the individuals referred to in paragraph (2) during such quarter.

''(B) Subparagraph (A) shall apply in the case of complaints filed against individuals on the basis of such individuals' personal conduct and shall not apply in the case of complaints filed solely on the basis of such individuals' positions as officials of the Department.

''(2) Paragraph (1) applies to the following officers and employees of the Department:

''(A) The Secretary.

''(B) The Deputy Secretary of Veterans Affairs.

''(C) The Under Secretary for Health and the Under Secretary for Benefits.

''(D) Each Assistant Secretary of Veterans Affairs and each Deputy Assistant Secretary of Veterans Affairs.

''(E) The Director of the National Cemetery System.

''(F) The General Counsel of the Department.

''(G) The Chairman of the Board of Veterans' Appeals.

''(H) The Chairman of the Board of Contract Appeals of the Department.

''(I) The director and the chief of staff of each medical center of the Department.

''(J) The director of each Veterans Integrated Services Network.

''(K) The director of each regional office of the Department.

''(L) Each program director of the Central Office of the Department.

''(3) Each report under this subsection—

''(A) may not disclose information which identifies the individuals filing, or the individuals who are the subject of, the complaints concerned or the facilities at which the discrimination identified in such complaints is alleged to have occurred;

''(B) shall summarize such complaints by type and by equal employment opportunity field office area in which filed; and

''(C) shall include copies of such complaints, with the information described in subparagraph (A) redacted.

''(4) Not later than April 1 each year, the Assistant Secretary shall submit to the committees referred to in paragraph (1)(A) a report on the complaints covered by paragraph (1) during the preceding year, including the number of such complaints filed during that year and the status and resolution of the investigation of such complaints.

''(f) The Secretary shall ensure that an employee of the Department who seeks counseling relating to employment discrimination may elect to receive such counseling from an employee of the Department who carries out equal employment opportunity counseling functions on a full-time basis rather than from an employee of the Department who carries out such functions on a part-time basis.

''(g) The number of employees of the Department whose duties include equal employment opportunity counseling functions as well as other, unrelated functions may not exceed 40 full-time equivalent employees. Any such employee may be assigned equal employment opportunity counseling functions only at Department facilities in remote geographic locations (as determined by the Secretary). The Secretary may waive the limitation in the preceding sentence in specific cases.

''(h) The provisions of this section shall be implemented in a manner consistent with procedures applicable under regulations prescribed by the Equal Employment Opportunity Commission.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 515 the following new item:

''516. Equal employment responsibilities.''.

(b) REPORTS.—(1) The Secretary of Veterans Affairs shall submit to Congress reports on the implementation and operation of the equal employment opportunity system within the Department of Veterans Affairs. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.

(2) The first report under paragraph (1) shall set forth the actions taken by the Secretary to implement section 516 of title 38, United States Code, as added by subsection (a), and other actions taken by the Secretary in relation to the equal employment opportunity system within the Department of Veterans Affairs.

(3) The subsequent reports under paragraph (1) shall set forth, for each equal employment opportunity field office of the Department and for the Department as a whole, the following:

(A) Any information to supplement the information submitted in the report under paragraph (2) that the Secretary considers appropriate.

(B) The number of requests for counseling relating to employment discrimination received during the one-year period ending on the date of the report concerned.

(C) The number of employment discrimination complaints received during such period.

(D) The status of each complaint described in subparagraph (C), including whether or not the complaint was resolved and, if resolved, whether the employee concerned sought review of the resolution by the Equal Employment Opportunity Commission or by Federal court.

(E) The number of employment discrimination complaints that were settled during such period, including—

(i) the type of such complaints; and

(ii) the terms of settlement (including any settlement amount) of each such complaint.

(c) EFFECTIVE DATE.—Section 516 of title 38, United States Code, as added by subsection (a), shall take effect 90 days after the date of enactment of this Act. Subsection (e) of that section shall take effect with respect to the first quarter of calendar year 1998.

SEC. 102. DISCRIMINATION COMPLAINT ADJUDICATION AUTHORITY.

(a) IN GENERAL.—(1) Chapter 3 is amended by adding at the end the following new section:

"§ 319. Office of Employment Discrimination Complaint Adjudication

''(a)(1) There is in the Department an Office of Employment Discrimination Complaint Adjudication. There is at the head of the Office a Director.

''(2) The Director shall be a career appointee in the Senior Executive Service.

''(3) The Director reports directly to the Secretary or the Deputy Secretary concerning matters within the responsibility of the Office.

''(b)(1) The Director is responsible for making the final agency decision within the Department on the merits of any employment discrimination complaint filed by an employee, or an applicant for employment, with the Department. The Director shall make such decisions in an impartial and objective manner.

''(2) No person may make any ex parte communication to the Director or to any employee of the Office with respect to a matter on which the Director has responsibility for making a final agency decision.

''(c) Whenever the Director has reason to believe that there has been retaliation against an employee by reason of the employee asserting rights under an equal employment opportunity law, the Director shall report the suspected retaliatory action directly to the Secretary or Deputy Secretary, who shall take appropriate action thereon.

''(d)(1) The Office shall employ a sufficient number of attorneys and other personnel as are necessary to carry out the functions of the Office. Attorneys shall be compensated at a level commensurate with attorneys employed by the Office of the General Counsel.

''(2) The Secretary shall ensure that the Director is furnished sufficient resources in addition to personnel under paragraph (1) to enable the Director to carry out the functions of the Office in a timely manner.

''(3) The Secretary shall ensure that any performance appraisal of the Director of the Office of Employment Discrimination Complaint Adjudication or of any employee of the Office does not take into consideration the record of the Director or employee in deciding cases for or against the Department.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''319. Office of Employment Discrimination Complaint Adjudication.''.

(b) REPORTS ON IMPLEMENTATION.—The Director of the Office of Employment Discrimination Complaint Adjudication of the Department of Veterans Affairs (established by section 319 of title 38, United States Code, as added by subsection (a)) shall submit to the Secretary of Veterans Affairs and to Congress reports on the implementation and the operation of that office. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.

(c) EFFECTIVE DATE.—Section 319 of title 38, United States Code, as added by subsection (a), shall take effect 90 days after the date of enactment of this Act.

SEC. 103. ASSESSMENT AND REVIEW OF DEPARTMENT OF VETERANS AFFAIRS EMPLOYMENT DISCRIMINATION COMPLAINT RESOLUTION SYSTEM.

(a) AGREEMENT FOR ASSESSMENT AND REVIEW.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with a qualified private entity under which agreement the entity shall carry out the assessment described in subsection (b) and the review described in subsection (c).

(2) The Secretary shall include in the agreement provisions necessary to ensure that the entity carries out its responsibilities under the agreement (including the exercise of its judgments concerning the assessment and review) in a manner free of influence from any source, including the officials and employees of the Department of Veterans Affairs.

(3) The Secretary may not enter into the agreement until 15 days after the date on which the Secretary notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the entity with which the Secretary proposes to enter into the agreement.

(b) INITIAL ASSESSMENT OF SYSTEM.—(1) Under the agreement under subsection (a), the entity shall conduct an assessment of the employment discrimination complaint resolution system administered within the Department of Veterans Affairs, including the extent to which the system meets the objectives set forth in section 516(a) of title 38, United States Code, as added by section 101. The assessment shall include a comprehensive description of the system as of the time of the assessment.

(2) Under the agreement, the entity shall submit the assessment to the committees referred to in subsection (a)(3) and to the Secretary not later than June 1, 1998.

(c) REVIEW OF ADMINISTRATION OF SYSTEM.—(1) Under the agreement under subsection (a), the entity shall monitor and review the administration by the Secretary of the employment discrimination complaint resolution system administered within the Department.

(2) Under the agreement, the entity shall submit to the committees referred to in subsection (a)(3) and to the Secretary a report on the results of the review under paragraph (1) not later than June 1, 1999. The report shall include an assessment of the administration of the system, including the extent to which the system meets the objectives referred to in subsection (b)(1), and the effectiveness of the following:

(A) Programs to train and maintain a cadre of individuals who are competent to investigate claims relating to employment discrimination.

(B) Programs to train and maintain a cadre of individuals who are competent to provide counseling to individuals who submit such claims.

(C) Programs to provide education and training to Department employees regarding their rights and obligations under the equal employment opportunity laws.

(D) Programs to oversee the administration of the system.

(E) Programs to evaluate the effectiveness of the system in meeting its objectives.

(F) Other programs, procedures, or activities of the Department relating to the equal employment opportunity laws, including any alternative dispute resolution procedures and informal dispute resolution and settlement procedures.

(G) Any disciplinary measures imposed by the Secretary on employees determined to have violated the equal employment opportunity laws in preventing or deterring violations of such laws by other employees of the Department.

TITLE II—EXTENSION AND IMPROVEMENT OF AUTHORITIES

SEC. 201. NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM.

(a) EXTENSION OF PILOT PROGRAM.—Section 3761(c) is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''December 31, 2001''.

(b) OUTREACH.—Section 3762(i) is amended—

(1) by inserting ''(1)'' after ''(i)'';

(2) by inserting '', in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council),'' after ''The Secretary shall'';

(3) by striking out ''tribal organizations and''; and

(4) by adding at the end the following:

''(2) Activities under the outreach program shall include the following:

''(A) Attending conferences and conventions conducted by the National Congress of American Indians in order to work with the National Congress in providing information and training to tribal organizations and Native American veterans regarding the availability of housing benefits under the pilot program and in assisting such organizations and veterans in participating in the pilot program.

''(B) Attending conferences and conventions conducted by the National American Indian Housing Council in order to work with the Housing Council in providing information and training to tribal organizations and tribal housing entities regarding the availability of such benefits.

''(C) Attending conferences and conventions conducted by the Department of Hawaiian Homelands in order to work with the Department of Hawaiian Homelands in providing information and training to tribal housing entities in Hawaii regarding the availability of such benefits.

''(D) Producing and disseminating information to tribal governments, tribal veterans service organizations, and tribal organizations regarding the availability of such benefits.

''(E) Assisting tribal organizations and Native American veterans in participating in the pilot program.

''(F) Outstationing loan guarantee specialists in tribal facilities on a part-time basis if requested by the tribal government.''.

(c) ANNUAL REPORTS.—Section 3762 is further amended by adding at the end the following new subsection:

''(j) Not later than February 1 of each year through 2002, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report relating to the implementation of the pilot program under this subchapter during the fiscal year preceding the date of the report. Each such report shall include the following:

''(1) The Secretary's exercise during such fiscal year of the authority provided under subsection (c)(1)(B) to make loans exceeding the maximum loan amount.

''(2) The appraisals performed for the Secretary during such fiscal year under the authority of subsection (d)(2), including a description of—

''(A) the manner in which such appraisals were performed;

''(B) the qualifications of the appraisers who performed such appraisals; and

''(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States.

''(3) The outreach activities undertaken under subsection (i) during such fiscal year, including—

''(A) a description of such activities on a region-by-region basis; and

''(B) an assessment of the effectiveness of such activities in encouraging the participation of Native American veterans in the pilot program.

''(4) The pool of Native American veterans who are eligible for participation in the pilot program, including—

''(A) a description and analysis of the pool, including income demographics;

''(B) a description and assessment of the impediments, if any, to full participation in the pilot program of the Native American veterans in the pool; and

''(C) the impact of low-cost housing programs operated by the Department of Housing and Urban Development and other Federal or State agencies on the demand for direct loans under this section.

''(5) The Secretary's recommendations, if any, for additional legislation regarding the pilot program.''.

SEC. 202. TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.

(a) CODIFICATION AND REVISION OF PROGRAMS.—Chapter 17 is amended by adding at the end the following new subchapter:

''SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

''§ 1771. General treatment

''(a) In providing care and services under section 1710 of this title to veterans suffering from serious mental illness, including veterans who are homeless, the Secretary may provide (directly or in conjunction with a governmental or other entity)—

''(1) outreach services;

''(2) care, treatment, and rehabilitative services (directly or by contract in community-based treatment facilities, including halfway houses); and

''(3) therapeutic transitional housing assistance under section 1772 of this title, in conjunction with work therapy under subsection (a) or (b) of section 1718 of this title and outpatient care.

''(b) The authority of the Secretary under subsection (a) expires on December 31, 2001.

''§ 1772. Therapeutic housing

''(a) The Secretary, in connection with the conduct of compensated work therapy programs, may operate residences and facilities as therapeutic housing.

''(b) The Secretary may use such procurement procedures for the purchase, lease, or other acquisition of residential housing for purposes of this section as the Secretary considers appropriate to expedite the opening and operation of transitional housing and to protect the interests of the United States.

''(c) A residence or other facility may be operated as transitional housing for veterans described in paragraphs (1) and (2) of section 1710(a) of this title under the following conditions:

''(1) Only veterans described in those paragraphs and a house manager may reside in the residence or facility.

''(2) Each resident, other than the house manager, shall be required to make payments that contribute to covering the expenses of board and the operational costs of the residence or facility for the period of residence in such housing.

''(3) In order to foster the therapeutic and rehabilitative objectives of such housing (A) residents shall be prohibited from using alcohol or any controlled substance or item, (B) any resident violating that prohibition may be expelled from the residence or facility, and (C) each resident shall agree to undergo drug testing or such other measures as the Secretary shall prescribe to ensure compliance with that prohibition.

''(4) In the establishment and operation of housing under this section, the Secretary shall consult with appropriate representatives of the community in which the housing is established and shall comply with zoning requirements, building permit requirements, and other similar requirements applicable to other real property used for similar purposes in the community.

''(5) The residence or facility shall meet State and community fire and safety requirements applicable to other real property used for similar purposes in the community in which the transitional housing is located, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to such property.

''(d) The Secretary shall prescribe the qualifications for house managers for transitional housing units operated under this section. The Secretary may provide for free room and subsistence for a house manager in addition to, or instead of payment of, a fee for the services provided by the manager.

''(e)(1) The Secretary may operate as transitional housing under this section—

''(A) any suitable residential property acquired by the Secretary as the result of a default on a loan made, guaranteed, or insured under chapter 37 of this title;

''(B) any suitable space in a facility under the jurisdiction of the Secretary that is no longer being used (i) to provide acute hospital care, or (ii) as housing for medical center employees; and

''(C) any other suitable residential property purchased, leased, or otherwise acquired by the Secretary.

''(2) In the case of any property referred to in paragraph (1)(A), the Secretary shall—

''(A) transfer administrative jurisdiction over such property within the Department from the Veterans Benefits Administration to the Veterans Health Administration; and

''(B) transfer from the General Post Fund to the Loan Guaranty Revolving Fund under chapter 37 of this title an amount (not to exceed the amount the Secretary paid for the property) representing the amount the Secretary considers could be obtained by sale of such property to a nonprofit organization or a State for use as a shelter for homeless veterans.

''(3) In the case of any residential property obtained by the Secretary from the Department of Housing and Urban Development under this section, the amount paid by the Secretary to that Department for that property may not exceed the amount that the Secretary of Housing and Urban Development would charge for the sale of that property to a nonprofit organization or a State for use as a shelter for homeless persons. Funds for such charge shall be derived from the General Post Fund.

''(f) The Secretary shall prescribe—

''(1) a procedure for establishing reasonable payment rates for persons residing in transitional housing; and

''(2) appropriate limits on the period for which such persons may reside in transitional housing.

''(g) The Secretary may dispose of any property acquired for the purpose of this section. The proceeds of any such disposal shall be credited to the General Post Fund.

''(h) Funds received by the Department under this section shall be deposited in the General Post Fund. The Secretary may distribute out of the fund such amounts as necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out such program. The Secretary shall manage the operation of this section so as to ensure that expenditures under this subsection for any fiscal year shall not exceed by more than $500,000 proceeds credited to the General Post Fund under this section. The operation of the program and funds received shall be separately accounted for, and shall be stated in the documents accompanying the President's budget for each fiscal year.

''§ 1773. Additional services at certain locations

''(a) Subject to the availability of appropriations, the Secretary shall operate a program under this section to expand and improve the provision of benefits and services by the Department to homeless veterans.

''(b) The program shall include the establishment of not fewer than eight programs (in addition to any existing programs providing similar services) at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of those specialized services which may be provided under existing law.

''(c) The program shall include the services of such employees of the Veterans Benefits Administration as the Secretary determines appropriate at sites under the jurisdiction of the Secretary at which services are provided to homeless veterans.

''(d) The program under this section shall terminate on December 31, 2001.

''§ 1774. Coordination with other agencies and organizations

''(a) In assisting homeless veterans, the Secretary shall coordinate with, and may provide services authorized under this title in conjunction with, State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations.

''(b)(1) The Secretary shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be.

''(2) Each such assessment shall be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

''(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

''(A) Health care.

''(B) Education and training.

''(C) Employment.

''(D) Shelter.

''(E) Counseling.

''(F) Outreach services.

''(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

''(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

''(c) In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility or office, to—

''(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned, together with a description of the services offered by those programs;

''(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans;

''(3) take appropriate action to meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

''(4) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (3) of the services available to such veterans within the area served by such center or office.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1720A is amended—

(A) by striking out subsections (a), (e), (f), and (g); and

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

(2) The heading of such section is amended to read as follows:

''§ 1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency''.

(c) CONFORMING REPEALS.—The following provisions are repealed:

(1) Section 7 of Public Law 102–54 (38 U.S.C. 1718 note).

(2) Section 107 of the Veterans' Medical Programs Amendments of 1992 (38 U.S.C. 527 note).

(3) Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note).

(4) Section 115 of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note).

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 17 is amended—

(1) by striking out the item relating to section 1720A and inserting in lieu thereof the following:

''1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency.''; and

(2) by adding at the end the following:

''SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

''1771. General treatment.
''1772. Therapeutic housing.
''1773. Additional services at certain locations.
''1774. Coordination with other agencies and organizations.''.

SEC. 203. EXTENSION OF CERTAIN AUTHORITIES RELATING TO HOMELESS VETERANS.

(a) AGREEMENTS FOR HOUSING ASSISTANCE FOR HOMELESS VETERANS.—Section 3735(c) is amended by striking out ''December 31, 1997'' and inserting in lieu thereof ''December 31, 1999''.

(b) EXTENSION OF HOMELESS VETERANS COMPREHENSIVE SERVICE GRANT PROGRAM.—Section 3(a)(2) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1999''.

(c) HOMELESS VETERANS' REINTEGRATION PROJECTS.—The Stewart B. McKinney Homeless Assistance Act is amended as follows:

(1) Section 738(e)(1) (42 U.S.C. 11448(e)(1)) is amended by adding at the end the following new subparagraph:

''(G) $10,000,000 for fiscal year 1999.''.

(2) Section 741 (42 U.S.C. 11450) is amended by striking out ''December 31, 1997'' and inserting in lieu thereof ''December 31, 1999''.

SEC. 204. ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS.

Section 1001 of the Veterans' Benefits Improvements Act of 1994 (38 U.S.C. 7721 note) is amended—

(1) in subsection (a)(2)—

(A) by striking out ''and'' at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ''; and''; and

(C) by adding at the end the following new subparagraphs:

''(D) evaluate the effectiveness of the programs of the Department (including residential work-therapy programs, programs combining outreach, community-based residential treatment, and case-management, and contract care programs for alcohol and drug-dependence or abuse disabilities) in providing assistance to homeless veterans; and

''(E) evaluate the effectiveness of programs established by recipients of grants under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note), and describe the experience of such recipients in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans.''; and

(2) by striking out subsection (b).

SEC. 205. EXPANSION OF AUTHORITY FOR ENHANCED-USE LEASES OF DEPARTMENT OF VETERANS AFFAIRS REAL PROPERTY.

(a) FOUR-YEAR EXTENSION OF AUTHORITY.—Section 8169 is amended by striking out ''December 31, 1997'' and inserting in lieu thereof ''December 31, 2001''.

(b) REPEAL OF LIMITATION ON NUMBER OF AGREEMENTS.—(1) Section 8168 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 8168.

SEC. 206. PERMANENT AUTHORITY TO FURNISH NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) PERMANENT AUTHORITY.—Subsection (a) of section 1720C is amended by striking out ''During'' and all that follows through ''furnishing of'' and inserting in lieu thereof ''The Secretary may furnish''.

(b) CONFORMING AMENDMENTS.—(1) Subsections (b)(1) and (d) of such section are amended by striking out ''pilot''.

(2) The heading for such section is amended to read as follows:

''§ 1720C. Noninstitutional alternatives to nursing home care''.

(3) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

''1720C. Noninstitutional alternatives to nursing home care.''.

SEC. 207. EXTENSION OF HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM.

(a) EXTENSION.—Section 7618 is amended by striking out ''December 31, 1997'' and inserting in lieu thereof ''December 31, 1998''.

(b) SUBMISSION OF OVERDUE REPORT.—The Secretary of Veterans Affairs shall submit to Congress not later than 180 days after the date of the enactment of this Act the report evaluating the operation of the health professional scholarship program required to be submitted not later than March 31, 1997, under section 202(b) of Public Law 104–110 (110 Stat. 770).

SEC. 208. POLICY ON BREAST CANCER MAMMOGRAPHY.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

''§ 7322. Breast cancer mammography policy

''(a) The Under Secretary for Health shall develop a national policy for the Veterans Health Administration on mammography screening for veterans.

''(b) The policy developed under subsection (a) shall—

''(1) specify standards of mammography screening;

''(2) provide recommendations with respect to screening, and the frequency of screening, for—

''(A) women veterans who are over the age of 39; and

''(B) veterans, without regard to age, who have clinical symptoms, risk factors, or family history of breast cancer; and

''(3) provide for clinician discretion.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7321 the following new item:

''7322. Breast cancer mammography policy.''.

(b) EFFECTIVE DATE.—The Secretary of Veterans Affairs shall develop the national policy on mammography screening required by section 7322 of title 38, United States Code, as added by subsection (a), and shall furnish such policy in a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than 60 days after the date of the enactment of this Act. Such policy shall not take effect before the expiration of 30 days after the date of its submission to those committees.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the policy developed under section 7322 of title 38, United States Code, as added by subsection (a), shall be in accordance with the guidelines endorsed by the Secretary of Health and Human Services and the Director of the National Institutes of Health.

SEC. 209. PERSIAN GULF WAR VETERANS.

(a) CRITERIA FOR PRIORITY HEALTH CARE.—(1) Subsection (a)(2)(F) of section 1710 is amended by striking out ''environmental hazard'' and inserting in lieu thereof ''other conditions''.

(2) Subsection (e)(1)(C) of such section is amended—

(A) by striking out ''the Secretary finds may have been exposed while serving'' and inserting in lieu thereof ''served'';

(B) by striking out ''to a toxic substance or environmental hazard''; and

(C) by striking out ''exposure'' and inserting in lieu thereof ''service''.

(3) Subsection (e)(2)(B) of such section is amended by striking out ''an exposure'' and inserting in lieu thereof ''the service''.

(b) DEMONSTRATION PROJECTS FOR TREATMENT OF PERSIAN GULF ILLNESS.—(1) The Secretary of Veterans Affairs shall carry out a program of demonstration projects to test new approaches to treating, and improving the satisfaction with such treatment of, Persian Gulf veterans who suffer from undiagnosed and ill-defined disabilities. The program shall be established not later than July 1, 1998, and shall be carried out at up to 10 geographically dispersed medical centers of the Department of Veterans Affairs.

(2) At least one of each of the following models shall be used at no less than two of the demonstration projects:

(A) A specialized clinic which serves Persian Gulf veterans.

(B) Multidisciplinary treatment aimed at managing symptoms.

(C) Use of case managers.

(3) A demonstration project under this subsection may be undertaken in conjunction with another funding entity, including agreements under section 8111 of title 38, United States Code.

(4) The Secretary shall make available from appropriated funds (which have been retained for contingent funding) $5,000,000 to carry out the demonstrations projects.

(5) The Secretary may not approve a medical center as a location for a demonstration project under this subsection unless a peer review panel has determined that the proposal submitted by that medical center is among those proposals that have met the highest competitive standards of clinical merit and the Secretary has determined that the facility has the ability to—

(A) attract the participation of clinicians of outstanding caliber and innovation to the project; and

(B) effectively evaluate the activities of the project.

(6) In determining which medical centers to select as locations for demonstration projects under this subsection, the Secretary shall give special priority to medical centers that have demonstrated a capability to compete successfully for extramural funding support for research into the effectiveness and cost-effectiveness of the care provided under the demonstration project.

SEC. 210. PRESIDENTIAL REPORT ON PREPARATIONS FOR A NATIONAL RESPONSE TO MEDICAL EMERGENCIES ARISING FROM THE TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

(a) REPORT.—(1) Not later than March 1, 1998, the President shall submit to Congress a report on the plans, preparations, and capability of the Federal Government and State and local governments for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction. The report shall be submitted in unclassified form, but may include a classified annex.

(2) The report should be prepared in consultation with the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Director of the Federal Emergency Management Agency, and the head of any other department or agency of the Federal Government that may be involved in responding to such emergencies. The President shall designate a lead agency for purposes of the preparation of the report.

(b) CONTENTS.—The report shall include the following:

(1) A description of the steps taken by the Federal Government to plan and prepare for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction.

(2) A description of the laws and agreements governing the responsibilities of the various departments and agencies of the Federal Government, and of State and local governments, for the response to such emergencies, and an assessment of the interrelationship of such responsibilities under such laws and agreements.

(3) Recommendations, if any, for the simplification or improvement of such responsibilities.

(4) An assessment of the current level of preparedness for such response of all departments and agencies of the Federal Government and State and local governments that are responsible for such response.

(5) A current inventory of the existing medical assets from all sources which can be made available for such response.

(6) Recommendations, if any, for the improved or enhanced use of the resources of the Federal Government and State and local governments for such response.

(7) The name of the official or office of the Federal Government designated to coordinate the response of the Federal Government to such emergencies.

(8) A description of the lines of authority between the departments and agencies of the Federal Government to be involved in the response of the Federal Government to such emergencies.

(9) A description of the roles of each department and agency of the Federal Government to be involved in the preparations for, and implementation of, the response of the Federal Government to such emergencies.

(10) The estimated costs of each department and agency of the Federal Government to prepare for and carry out its role as described under paragraph (9).

(11) A description of the steps, if any, being taken to create a funding mechanism for the response of the Federal Government to such emergencies.

TITLE III—MAJOR MEDICAL FACILITY PROJECTS CONSTRUCTION AUTHORIZATION

SEC. 301. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Seismic corrections at the Department of Veterans Affairs medical center in Memphis, Tennessee, in an amount not to exceed $34,600,000.

(2) Seismic corrections and clinical and other improvements to the McClellan Hospital at Mather Field, Sacramento, California, in an amount not to exceed $48,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

(3) Outpatient improvements at Mare Island, Vallejo, California, and Martinez, California, in a total amount not to exceed $7,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

SEC. 302. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) Lease of an information management field office, Birmingham, Alabama, in an amount not to exceed $595,000.

(2) Lease of a satellite outpatient clinic, Jacksonville, Florida, in an amount not to exceed $3,095,000.

(3) Lease of a satellite outpatient clinic, Boston, Massachusetts, in an amount not to exceed $5,215,000.

(4) Lease of a satellite outpatient clinic, Canton, Ohio, in an amount not to exceed $2,115,000.

(5) Lease of a satellite outpatient clinic, Portland, Oregon, in an amount not to exceed $1,919,000.

(6) Lease of a satellite outpatient clinic, Tulsa, Oklahoma, in an amount not to exceed $2,112,000.

(7) Lease of an information resources management field office, Salt Lake City, in an amount not to exceed $652,000.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1998—

(1) for the Construction, Major Projects, account, $34,600,000 for the project authorized in section 301(1); and

(2) for the Medical Care account, $15,703,000 for the leases authorized in section 302.

(b) LIMITATION.—The projects authorized in section 301 may only be carried out using—

(1) funds appropriated for fiscal year 1998 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1998 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1998 for a category of activity not specific to a project.

TITLE IV—TECHNICAL AND CLARIFYING AMENDMENTS

SEC. 401. TECHNICAL AMENDMENTS.

(a) PLOT ALLOWANCE FOR DEATHS IN DEPARTMENT FACILITIES.—Section 2303(a)(2)(A) is amended by striking out ''a Department facility (as defined in section 1701(4) of this title)'' and inserting in lieu thereof ''a facility of the Department (as defined in section 1701(3) of this title)''.

(b) EDUCATIONAL ASSISTANCE ALLOWANCE FOR CERTAIN INDIVIDUALS PURSUING COOPERATIVE PROGRAMS.—Section 3015(e)(1) is amended—

(1) by striking out ''(1) Subject to paragraph (2)'' and inserting in lieu thereof ''(1)(A) Except as provided in subparagraph (B) of this paragraph and subject to paragraph (2)''; and

(2) by adding at the end the following:

''(B) Notwithstanding subparagraph (A) of this paragraph, in the case of an individual described in that subparagraph who is pursuing a cooperative program on or after October 9, 1996, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual for pursuit of full-time institutional training under chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.''.

(c) ELIGIBILITY OF CERTAIN VEAP PARTICIPANTS TO ENROLL IN MONTGOMERY GI BILL.—Section 3018C(a) is amended—

(1) in paragraph (1), by striking out ''the date of the enactment of the Veterans' Benefits Improvements Act of 1996'' and inserting in lieu thereof ''October 9, 1996,'';

(2) in paragraph (4), by striking out ''during the one-year period specified'' and inserting in lieu thereof ''after the date on which the individual makes the election described''; and

(3) in paragraph (5), by striking out ''the date of the enactment of the Veterans' Benefits Improvements Act of 1996'' and inserting in lieu thereof ''October 9, 1996''.

(d) ENROLLMENT IN OPEN CIRCUIT TELEVISION COURSES.—Section 3680A(a)(4) is amended by inserting ''(including open circuit television)'' after ''independent study program'' the second place it appears.

(e) ENROLLMENT IN CERTAIN COURSES.—Section 3680A(g) is amended by striking out ''subsections (e) and (f)'' and inserting in lieu thereof ''subsections (e) and (f)(1)''.

(f) CERTAIN BENEFITS FOR SURVIVING SPOUSES.—Section 5310(b)(2) is amended by striking out ''under this paragraph'' in the first sentence and inserting in lieu thereof ''under paragraph (1)''.

SEC. 402. CLARIFICATION OF CERTAIN HEALTH CARE AUTHORITIES.

(a) ELIGIBILITY FOR HOSPITAL CARE AND MEDICAL SERVICES.—Section 1710(a)(2)(B) is amended by striking out ''compensable''.

(b) HOME HEALTH SERVICES.—Section 1717(a) is amended—

(1) in paragraph (1), by striking out ''veteran's disability'' and inserting in lieu thereof ''veteran''; and

(2) in paragraph (2)(B), by striking out ''section 1710(a)(2)'' and inserting in lieu thereof ''section 1710(a)''.

(c) AUTHORITY TO TRANSFER VETERANS RECEIVING OUTPATIENT CARE TO NON-DEPARTMENT NURSING HOMES.—Section 1720(a)(1)(A)(i) is amended by striking out ''hospital care, nursing home care, or domiciliary care'' and inserting in lieu thereof ''care''.

(d) ACQUISITION OF COMMERCIAL HEALTH CARE RESOURCES.—Section 8153(a)(3)(A) is amended by inserting ''(including any Executive order, circular, or other administrative policy)'' after ''law or regulation''.

(e) COMPETITION IN PROCUREMENT OF COMMERCIAL HEALTH CARE RESOURCES.—Section 8153(a)(3)(B)(ii) is amended in the second sentence by inserting '', as appropriate,'' after ''all responsible sources''.

SEC. 403. CORRECTION OF NAME OF MEDICAL CENTER.

The facility of the Department of Veterans Affairs in Columbia, South Carolina, known as the Wm. Jennings Bryan Dorn Veterans' Hospital shall hereafter be known and designated as the ''Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center''. Any reference to that facility in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center.

SEC. 404. IMPROVEMENT TO SPINA BIFIDA BENEFITS FOR CHILDREN OF VIETNAM VETERANS.

(a) DEFINITIONS.—The text of section 1801 is amended to read as follows:

''For the purposes of this chapter—

''(1) The term 'child', with respect to a Vietnam veteran, means a natural child of a Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the Vietnam veteran first entered the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

''(2) The term 'Vietnam veteran' means an individual who performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, without regard to the characterization of the individual's service.''.

(b) APPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.—(1) Section 1806 is amended to read as follows:

''§ 1806. Applicability of certain administrative provisions

''The provisions of sections 5101(c), 5110(a), (b)(2), (g), and (i), 5111, and 5112(a), (b)(1), (b)(6), (b)(9), and (b)(10) of this title shall be deemed to apply to benefits under this chapter in the same manner in which they apply to veterans' disability compensation.''.

(2) The item relating to section 1806 in the table of sections at the beginning of chapter 18 is amended to read as follows:

''1806. Applicability of certain administrative provisions.''.

(c) AMENDMENTS TO VOCATIONAL REHABILITATION PROVISIONS.—Section 1804 is amended—

(1) in subsection (b), by striking out ''shall be designed'' and all that follows and inserting in lieu thereof the following: ''shall—

''(1) be designed in consultation with the child in order to meet the child's individual needs;

''(2) be set forth in an individualized written plan of vocational rehabilitation; and

''(3) be designed and developed before the date specified in subsection (d)(3) so as to permit the beginning of the program as of the date specified in that subsection.'';

(2) in subsection (c)(1)(B), by striking out ''institution of higher education'' and inserting in lieu thereof ''institution of higher learning''; and

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

''(3) A vocational training program under this section may begin on the child's 18th birthday, or on the successful completion of the child's secondary schooling, whichever first occurs, except that, if the child is above the age of compulsory school attendance under applicable State law and the Secretary determines that the child's best interests will be served thereby, the vocational training program may begin before the child's 18th birthday.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1997.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] each will control 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 714, the Senate bill presently under consideration.

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

There was no objection.

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

Madam Speaker, the House amendments to S. 714 represent a compromise between the House and Senate veterans' affairs committees on several measures considered by both sides this year. It requires the VA to develop new treatment programs for Persian Gulf war veterans, and clarifies that any Persian war veteran with an illness that could be due to service in the gulf is eligible for VA care.

The bill extends and streamlines laws under which the VA provides cares to homeless veterans and veterans who suffer from chronic mental illness. The bill authorizes funds for major medical facility projects, including funds to carry out seismic corrections projects at two VA medical centers.

The bill also creates a new process for resolving complaints of sexual harassment and employment discrimination at the VA. This process will be independent and free from undue influence from VA managers.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of S. 714, as amended. Madam Speaker, this agreement includes provisions to clarify, extend, and enhance measures to address homelessness among this Nation's veterans. The provisions before us today will allow the VA to continue to offer a range of programs to homeless veterans. Together these programs comprise a comprehensive increase that meets veterans' needs for health care, substance abuse treatment, vocational rehab work, and shelter. In addition, this measure extends the homeless veterans reintegration project administered by the Department of Labor and authorizes $10 million for this important program for fiscal year 1999.

This measure also permanently authorizes the VA to provide noninstitutional long-term care programs. Many veterans want to live at home as long as possible. Good noninstitutional programs can make this a reality. Under this authority the VA can provide cost-effective programs like home care, home aides, and adult day care to more veterans.

An important change in the eligibility of VA health care for the Persian Gulf veterans is included in this measure. Eligibility will now be based on a veteran's service, rather than actual exposure to a specific agent or environmental hazard.

Authority is also provided for the VA to create 10 model Persian Gulf veterans' treatment programs. Seven years has been too long to wait to meet the health care needs of our Persian Gulf veterans. I encourage the VA to develop centers of excellence and innovation for treatment of Persian Gulf symptoms related to their exposure.

The measure also requires the VA to establish a strong and comprehensive policy for mammography screening. The policy will specifically address women veterans over the age of 39 and any other veterans with clinical symptoms or risk factors that will allow physicians and patients to decide how long screening is necessary.

Two clarifying amendments are also included that should be mentioned. The first would clarify that children of Vietnam veterans who are born with spina bifida are eligible for the programs provided by the VA for such children, regardless of the character of the discharge of the child's Vietnam veteran parent. Additionally, the VA is to develop a child's vocational training program prior to the child's eligibility to begin participation in that program.

This measure also extends for 4 years the authority provided in the Native American Veterans Housing Loan Pilot Program. This important program provides direct loans to Native American veterans who reside on trust lands to build or purchase homes on those lands.

I am pleased that the Department of Veterans Affairs Employment Discrimination Prevention Act of 1997 is included in this bill. This is timely, and important legislation to reform the equal employment opportunity process at the VA is long overdue. By removing the EEO process from the facility where the discrimination allegedly occurred, this bill limits the ability of heavy-handed facility directors to unfairly influence the process in a discrimination complaint by requiring that such complaints be handled mostly by full-time, well-trained investigators at the regional EEO field office level. This bill brings greater independence and professionalism to the process.

By removing the final decision-making process from the VA's Office of General Counsel, this bill eliminates the obvious conflict of interest that exists today, when the General Counsel's Office is expected to be an advocate for

the Department on one hand, and to decide the merits of a complaint against the Department on another hand.

Madam Speaker, I do want to thank the gentleman from Arizona, the chairman of the committee, for his continuing efforts on behalf of our Nation's veterans. This is the end of our first year of working together with the gentleman from Arizona [Chairman STUMP], and we have had a great experience dealing with him, and but also with his subcommittee chairs, CLIFF STEARNS, JACK QUINN and TERRY EVERETT. I thank them for work on behalf of our Nation's veterans.

I want to thank my equivalent subcommittee ranking members, the gentleman from Illinois, [LUIS GUTIERREZ], the gentleman from California, [BOB FILNER], and the gentleman from South Carolina, [JAMES CLYBURN], for their excellent commitment to our veterans.

Madam Speaker, I rise in support of S. 714, as amended. As amended, S. 714 contains provisions of major importance to our Nation's veterans. It deserves the support of every Member of the House.

A number of the provisions in the measure now before us have already been approved by the House in legislation reported earlier this year by the Committee on Veterans' Affairs. I will not review every provision in this legislation, but will highlight several of the provisions of particular importance.

The Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act of 1997 is long overdue. The VA's efforts to eradicate harassment in the workplace have met with little, if any, success since I chaired the first oversight hearings on this issue back in 1992. In the 103d Congress, I cosponsored a bill much like the legislation we are considering today which overwhelmingly passed the House, but received no action in the Senate. At that time, the VA believed a proposed Governmentwide reform of the Federal EEO process was in the works, and there was no need to pass legislation to address what most would agree was a very serious problem at the Department.

Nearly 5 years later, the long-promised Governmentwide reform has never come, and the VA's ''zero tolerance'' policy on sexual harassment has proven ineffective if not abysmal. That's why passage by both bodies of Congress of this timely and important legislation to reform the equal employment opportunity process at the VA is critically important.

By removing the EEO complaint process from the facility where the discrimination allegedly occurred, this bill limits the ability of heavy-handed facility directors to unfairly influence the processing of discrimination complaints; by requiring that such complaints be handled by mostly full-time, well-trained investigators at regional EEO field offices, this bill brings greater independence and professionalism to the process. And by removing the final agency decision-making authority from the VA's Office of General Counsel, this bill eliminates the obvious conflict-of-interest that exists today when the general counsel's office is expected to be an advocate for the Department on the one hand, and to decide the merits of a complaint against the Department on the other.

I want to applaud Chairman EVERETT for his willingness to work with JIM CLYBURN and me to put together a bill that will greatly improve the processing of discrimination complaints at the VA. I also want to thank Senators ARLEN SPECTER, BOB GRAHAM, JAY ROCKEFELLER, LAUCH FAIRCLOTH, and TIM HUTCHINSON for working with us in the House to put together a bill we can all be proud of. I also want to commend the Department of Veterans Affairs for their willingness to work with the committees on language to a bill that I know the VA doesn't love, but that most people—even within the VA—would agree they need.

By enacting this legislation, Congress will help put VA back on the path toward restoring employee trust in the EEO process and eradicating discrimination in the workplace. Our veterans and VA employees deserve no less.

A number of the provisions in the House amendment to S. 714 are derived from H.R. 2206, a bill the House already approved. These provisions include measures to clarify, extend, and enhance measures to address homelessness. On any given night in America one-third of those living on the streets are veterans—many of them are my peers from the Vietnam era. I find this hard to live with—both as a veteran and as an American citizen—and I believe the provisions included in the House amendment provide a greater opportunity to respond to this problem. These provisions will allow VA to continue to offer a range of programs to homeless veterans. Together these programs comprise a comprehensive network that meets veterans' needs for health care, substance abuse treatment, vocational rehabilitation, work, and shelter.

Additionally, the House amendment permanently authorizes VA to provide noninstitutional long-term care programs. Many veterans want to live at home as long as possible—good noninstitutional programs can make this a reality. I encourage VA to take full advantage of this permanent authority to provide cost-effective programs like home care, home aides, and adult day health care to more veterans.

The measure before the House also includes an important change in the eligibility for VA health care for Persian Gulf war veterans. The language makes eligibility for such services contingent upon veterans' service rather than their actual exposure to a specific agent or environmental hazard. The change is significant as it offers veterans, whose illnesses remain undiagnosed, the benefit of the doubt. Until science enables VA to link specific agents with their health consequences, suffering veterans will have the ability to access VA services to treat their special health care needs.

It also offers a provision to create 10 model Persian Gulf veterans' treatment programs in VA. Seven years has been too long to wait to meet the health care needs of these men and women. I am hopeful using this grant approach for funding will allow VA to develop some real centers of excellence and innovation for treatment of veterans' symptoms related to their gulf war deployment.

This measure will also extend authority for VA's Health Professional Scholarship Program for another year, but it will require VA to submit a report on the program's effectiveness in the first 6 months after enactment.

The measure requires VA to establish a strong and comprehensive policy for mammogram screening. The policy will specifically address women veterans over the age of 39 and other veterans with clinical symptoms or risk factors, but will allow physicians and patients to decide how often screening is necessary.

Madam Speaker, I am very pleased that the compromise measure we are now considering includes provision which extends the homeless veterans reintegration project [HVRP] administered by the Department of Labor and authorizes $10 million for the program. There is virtually no disagreement that one-third of the homeless men in this country are veterans—and that approximately 60 percent of those individuals are veterans of the Vietnam era. This means, Mr. Chairman, that every night, in this great country of ours, more than 280,000 veterans are sleeping on America's streets or in homeless shelters.

Since 1987, HVRP, a modest, cost-effective program designed to help homeless veterans reenter and succeed in the job market, has proven its worth. More than 41,000 homeless veterans have received help and support from the community-based organizations funded under HVRP, and many were placed in jobs at a cost of less than $1,500 per veteran. Few Government programs can claim to have achieved so much with so little.

Earlier this year, the Veterans' Affairs Committee voted unanimously to fund HVRP. Republicans and Democrats alike came together to show their support for the men and women who have served honorably in our Nation's Armed Forces. Additionally, I was very pleased when the House unanimously approved an amendment I offered for myself and my distinguished colleague from California, Mr. FILNER, to the Labor, Health and Human Services Appropriation to increase HVRP funding, and I look forward to working with my colleagues on the Labor Appropriations Committee next year to ensure that HVRP is fully funded in fiscal year 1999.

Included in the House amendment to S. 714 are two clarifying amendments which deserve mention. First, the compromise would clarify that children of Vietnam veterans who are born with spina bifida are eligible for the programs provided by the VA for such children regardless of the character of discharge of the child's Vietnam veteran parent. Additionally, the agreement would clarify that VA assessment, evaluation, counseling, and the development of a child's vocational training program must begin at a time which will enable the child to begin participation in that program upon successful completion of secondary schooling or on the child's 18th birthday. These provisions are important to fair and effective implementation of the new spina bifida legislation, and I am pleased they are a part of this compromise measure.

Established under section 8 of Public Law 102–547, the Native American Veteran Housing Loan Pilot Program, administered by the Department of Veterans Affairs [VA], provides direct home loans to native American veterans who reside on trust lands to build or purchase homes on those lands. Previously, native American veterans who resided on trust lands were unable to qualify for VA home loan benefits. The authority for this program expired on September 30, 1997, and I strongly support the 4-year extension of the program included in the compromise agreement.

Under the pilot program, VA can make a loan to a native American veteran for a home

on trust lands only if VA had entered into a memorandum of understanding [MOU] with the Tribal entity that had jurisdiction over the trust land. Since the establishment of the program in 1992, VA has entered into 47 such MOU's and 164 loans have been made to native American veterans for the purchase, construction, or improvement of dwellings on trust land. Negotiations continue with hundreds of other tribes to establish memorandums of understanding and more than 90 individual loan applications are pending.

Although the numbers of native Americans who have taken advantage of the loan opportunities available under this program are smaller than expected, new outreach and reporting requirements included in the compromise agreement should result in an increased understanding of the program among Native Americans and thus increased participation.

The legislation we bring to the floor today also includes provisions from H.R. 2571, VA medical care major construction and lease authorizations for fiscal year 1998, another bill the House passed in October. This bill accommodates the administration's construction spending priorities as well as those projects for which appropriations have already been made.

The major construction projects require modest funding, but are critical to providing access to veterans in areas where their needs cannot be met or in maintaining patient safety in existing facilities which are deficient in conforming to seismic code. I am also pleased with the emphasis this bill places on outpatient projects and development of information resources management centers.

Leasing, rather than building, to meet VA's needs is also a move in the right direction. VA has sometimes been criticized for using ''bricks and mortar'' to meet its space requirements while facilities in the community stand vacant. The leases this bill authorizes are a more flexible means by which VA can provide the capacity it needs today, but may not need tomorrow.

Enhanced-use leases are a relatively new venture for VA, but they have proven to be a cost-effective means of providing programs to VA beneficiaries VA could not otherwise afford. The measure we offer today repeals limitations on the number of projects VA can enter in any given year or under current authority.

Enhanced-use leases allow VA to offer lessees land or space to operate programs that ensure discounted benefits for VA, its beneficiaries or its employees over the terms of the lease. Space has been offered for a diverse range of services including child-care that benefits VA employees, co-generation projects, research facilities, and patient services.

I urge my colleagues from both sides of the aisle to join me in support of the provisions to improve health care and benefits for America's veterans that we bring to the floor today. As we approach Veterans Day 1997, this legislation will serve as a part of the appropriate recognition we pay to the men and women who have served our Nation in uniform. This legislation will honor their service and sacrifice and be a tangible expression of our continuing commitment to care for those who have borne the battle, and their survivors and dependents.

Madam Speaker, I reserve the balance of my time.

Mr. STUMP. Madam Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. EVERETT], the chairman of the subcommittee.

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

Mr. EVERETT. Madam Speaker, I rise in strong support of S. 714, as amended, the Veterans Benefits Act of 1997.

Madam Speaker, I particularly want to address title I of the bill, which is derived from H.R. 1703, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

I introduced H.R. 1703 on May 22, 1997, and the House passed it on October 6, 1997. Title I represents a compromise agreement with the Senate on H.R. 1703 and S. 801, the Senate companion bill. I certainly recommend the results to my colleagues. The Senate drew much of the bill from the text of H.R. 1703, and the compromise is entirely consistent with the intent of the House bill.

Legislation to address the VA sexual harassment discrimination problems has been a very long time coming, since 1993, as a matter of fact. I am pleased with title I. I particularly want to thank Chairman STUMP for making it a priority for the Committee on Veterans' Affairs. I also want to thank the gentleman from Illinois [Mr. EVANS] from the committee, the gentleman from South Carolina [Mr. CLYBURN], ranking Democrat on the Subcommittee on Oversight and Investigations, for their original cosponsorship of H.R. 1703 and the leading roles they have played in the development of this important legislation. Also, the gentleman from Florida [Mr. BILIRAKIS] and the gentleman from Indiana [Mr. BUYER] were original cosponsors of H.R. 1703 and have been active in these provisions every step of the way.

Of course, without our Senate colleagues we would have no bill today. I want to commend Chairman SPECTER of the Senate Committee on Veterans' Affairs and Senator ROCKEFELLER, the ranking Democrat, for their hard work and cooperation on making this legislation possible today.

Madam Speaker, title I is for the loyal, dedicated employees of the VA who care for and serve our veterans. Some of them do not have the workplace environment of fairness and respect they deserve. I am optimistic these provisions, along with changes already occurring at the VA, will result in greatly improved employment confidence in the VA's ability to address sexual harassment and other discrimination problems.

This is good and much-needed legislation. I urge my colleagues to act favorably on S. 714, as amended.

Mr. EVANS. Madam Speaker, I yield 3 minutes to the gentleman from California [Mr. FILNER], a member of the committee.

Mr. FILNER. Madam Speaker, I rise in strong support of the Veterans Benefits Act of 1997, S. 714, as amended. Veterans' programs and benefits will be enhanced as a result of enactment of this legislation.

I am particularly pleased that this legislation includes provisions which clarify eligibility for and implementation of the new program that provides benefits for the children of Vietnam veterans who are born with spina bifida. This very important program is in the early days of implementation, and we must ensure that the Veterans Administration is administering the benefits provided in this program in accordance with the intent of Congress.

Madam Speaker, I also want to point out the extension of the Native American Veteran Housing Loan Pilot Program included in section 201 of this bill. Under this program, native Americans who live on trust lands can receive direct loans to build, purchase, or renovate a home.

Prior to the enactment of this program as a pilot 5 years ago, these native American veterans were not eligible for VA home loan assistance. Although this direct loan program has been generally successful, we have been somewhat disappointed in the number of native Americans who have taken advantage of the loans available under this program.

I believe that the outreach and reporting requirements included in S. 714 will significantly increase participation and enable the VA to more effectively administer this program.

Also included in this bill is a requirement that the VA develop a national policy on mammography screening for women veterans. All of us know that the incidence of breast cancer among American women has reached near epidemic levels. Our women veterans are no less at risk than our female civilians.

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We also know that critical to the management of this disease is early detection, and mammography is an important weapon in the fight against breast cancer. I want women veterans who have served in the Armed Forces on our behalf to have the same high level of access to mammography screening that I would want for members of my own family. Section 208 of this bill will ensure that access.

Madam Speaker, S. 714 is an excellent bill, and it is fitting that this legislation be approved just before Veterans Day. I urge my colleagues to demonstrate their support for America's veterans by voting for S. 714.

Mr. STUMP. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. QUINN], the chairman of the Subcommittee on Veterans Benefits.

Mr. QUINN. Mr. Speaker, I join my good friend, the gentleman from California [Mr. FILNER], in making note that Veterans Day, of course, is only a few days away, and it is appropriate that we come here together today to make improvements to several veterans' benefits programs.

I would like to take my time this afternoon, Mr. Speaker, to address the sections of S. 714 that fall within the jurisdiction of our Subcommittee on Veterans Benefits. I first would like to acknowledge the subcommittee ranking member, the gentleman from California [Mr. FILNER], and the bipartisan spirit in which he helped craft this bill. Without the strong cooperation of both sides of the aisle, I do not think we would be able to present these improvements to our veterans' benefits.

Section 201 of S. 714 continues VA's authority to provide direct loans to Native Americans through the year 2001. This program offers the opportunity to Native American veterans living on tribal trust land to purchase a home that they might not otherwise be able to acquire. The program requires the VA to conclude a memorandum of understanding with tribal governments that, among other things, gives the VA access to the property in case of foreclosure, thus protecting the interests of the taxpayer.

The bill would add specific outreach requirements such as participation in Native American conferences and outstationing loan guaranty specialists in tribal facilities only on a part-time basis. The bill also adds new reporting requirements so that Congress may gain a better understanding of the outcomes of the program.

Section 203 makes changes to several homeless programs, including an extension of the VA's authority through December 31, 1999, to sell, lease, or donate foreclosed VA property to nonprofit organizations or State and local governments for the purpose of providing housing for our homeless veterans.

It also extends the Department of Labor's authority to operate the Homeless Veterans Reintegration Project through 1999 and continues to authorize $10 million per year for the same program. This program is a grant program administered by the Veterans Employment and Training Service and is designed to work with community-based organizations who focus on providing employment services to unemployed, homeless veterans.

Since its inception in 1988, through and up till 1995, the program has served almost 42,000 homeless veterans, placing nearly 19,000 in jobs. This is an accomplishment for a program that has traditionally been funded only at about $2 or $3 million per year.

Also, section 401 makes several technical and clarifying amendments to burial and educational benefits.

Finally, Mr. Speaker, section 404 of the bill also makes clarifying changes to the spina bifida legislation that was passed during the late hours of our 104th Congress. This new section further defines eligibility by establishing January 9, 1962, as the earliest date on which a veteran's service in Vietnam would qualify a child for these benefits. That date conforms to the date on which United States forces began using defoliants in Vietnam.

The bill also further specifies the age at which the Secretary may provide vocational training as graduation from high school or the child's 18th birthday, whichever occurs first. It also requires that a vocational plan must be developed in time for the child to begin training when authorized.

Mr. Speaker, these provisions add to what is already the most complete program for veterans' benefits in the world. It is the right thing to do. I urge all our colleagues to support S. 714, as amended.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. CLYBURN], a member of the committee.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman from Illinois [Mr. EVANS], the ranking subcommittee member, for yielding me the time.

Mr. Speaker, I rise today in strong support of the Department of Veterans Affairs Employment Discrimination Prevention Act. This legislation is contained in S. 714, the compromise agreement which is before us today.

This year's Subcommittee on Veterans Oversight hearings have demonstrated the extremely sensitive and serious problem of sexual harassment within the Department of Veterans Affairs. The legislation we are considering today meets these glaring problems head-on.

The gentleman from Illinois [Mr. EVANS] and I were original cosponsors of similar legislation back in 1993. At that time, we were told that changes were in the works regarding the EEO process at VA and throughout the Federal Government and that there was no need for this legislation. This expected Government-wide solution never happened. The Senate never acted on the bill we passed in 1993. And here we are today, almost 5 years later, dealing with the sexual harassment problems that continue to fester at the VA.

It is a tribute to the leadership of the Subcommittee on Oversight chairman, the gentleman from Alabama [Mr. EVERETT], and I thank him for recognizing the continuing need for legislation to improve the EEO process at the VA. Without his commitment to this issue, it is likely that we would not be on the floor today considering final passage of this significant EEO reform legislation.

It is also a tribute to the VA that it has finally recognized its EEO process is seriously flawed and that it has independently proposed administrative changes that draw in large part from the bill we introduced earlier this year.

The VA's proposal did not go far enough, however, and that is why we need to approve this legislation today. By voting in favor of this bill, we in Congress will be doing our part to bring professionalism and independence to the EEO process at the VA and to help restore the faith and trust in the process that has been so lacking over the past few years.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. COOKSEY], a former flight surgeon and member of the committee.

Mr. COOKSEY. Mr. Speaker, I rise in support of the House amendments to S. 714 and to comment specifically on one provision of this legislation.

Our colleagues in the other body pressed for the inclusion of language which would have established in law specific medical practice criteria for VA clinicians. As a physician and as a legislator, I strongly believe that, as a matter of public policy, we should not attempt to legislate how medicine is practiced. While this bill expresses a sense of the Congress regarding a VA policy, that expression does not bind the VA.

I commend the chairman for following that wise course in this measure, and I urge my colleagues to support it.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I rise today in strong support of the bill to extend the Native American Veterans Housing Loan Program and for other purposes.

In July I introduced H.R. 2317, the House companion bill to S. 714. I am pleased that we are able to take up the Senate's version today. I would like to thank the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] and the staff of the Committee on Veterans' Affairs for working hard to strike the compromise which made it possible to take up this bill on the floor today. I would especially like to thank Debra Wada of Senator AKAKA's staff and Jill Cochran of the Committee on Veterans' Affairs for their hard work on improving benefits for native American veterans.

In 1992, the Native American Veterans' Home Loan Equity Act was enacted to establish and implement a pilot program to make direct housing loans to aid native American, Indian, Alaska or Hawaii Native or Pacific islander, veterans in purchasing, constructing, or improving dwellings on trust lands.

The Department of Veterans Affairs has successfully entered into agreements to provide direct loans to members of 46 Indian tribes and Pacific island groups. The VA is in negotiation with hundreds of other tribes to establish memorandums of understanding which would make this program available to those tribes. It is important that we extend this program to allow those native American tribes who are still in negotiations with the VA to have a chance to apply for these loans.

Through June of 1997, 164 loans were made to both Pacific islanders and native American veterans, with 90 applications pending. To date none of those loans issued has been foreclosed. This is an extremely successful program and is the only program available for this group of veterans who live on trust lands to finance homes for their families. The Department of Veterans Affairs supports the extension of this program.

Therefore, Mr. Speaker, the main issue here is equity. Native American

veterans have a right to the same benefits available to other veterans. I urge my colleagues to support this important legislation.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. STEARNS], chairman of the Subcommittee on Health.

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

Mr. STEARNS. Mr. Speaker, I thank the gentleman from Arizona [Mr. STUMP], the distinguished chairman of the Committee on Veterans' Affairs.

Mr. Speaker, as we take up this bill just 2 days before Veterans Day, we are in a very concrete way underscoring our commitment to veterans. Among its key provisions, these amendments to S. 714 provide important direction to the Department of Veterans Affairs to address what we believe is a glaring problem, the need to improve the care VA provides to Persian Gulf veterans.

Our committee has held what the American Legion 2 months ago described as ''the most comprehensive and important hearings on Gulf War veterans since the end of the Gulf War.'' This legislation stems from those hearings and would require VA to take a new approach, beginning with creating and funding demonstration programs. This should lead VA to develop new, improved models for treating veterans with undiagnosed or ill-defined conditions.

The bill would also clarify that Persian Gulf veterans are eligible for care of any condition which may be due to their service in the gulf, whether or not it can be linked to toxic substances or environmental hazards.

These amendments would also extend many expiring programs, including VA's authority to provide noninstitutional services to the elderly and needed assistance for homeless veterans.

Mr. Speaker, the legislation also provides needed authorization for VA medical facility construction and leasing initiatives for fiscal year 1998. For these and many other reasons, I support this bill. This is an excellent bill, and I urge all the Members to support it.

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

Mr. Speaker, as we take up this bill just 2 days before Veterans Day, we are in a very concrete way underscoring our commitment to veterans.

Among its key provisions, these amendments to S. 714 provide important direction to the Department of Veterans Affairs to address what is both one of the most glaring problems in the area of veterans affairs, and the most pressing problem facing many Persian Gulf war veterans—the need for effective health care. In wrestling with this problem, our committee has held what the American Legion 2 months ago described as ''the most comprehensive and important hearings on Gulf War veterans since the end of the Gulf War.'' Our findings and resultant legislation have frankly not commanded the attention associated with still speculative questions regarding toxic chemical exposures. We have found that VA treatment, particularly of veterans with hard to diagnose problems, has been uneven from facility to facility. Too often, veterans have fallen through the cracks, and complex cases have not received coordinated care. VA's primary care system appears ill-suited to help the many veterans who suffer from ill-defined, multiple-system health problems. Lack of understanding of the illnesses affecting Persian Gulf war veterans has fueled a perception in many veterans that VA clinicians lack empathy for their conditions. This legislation would begin to remedy the kinds of problems Persian Gulf veterans and independent observers have highlighted about the treatment these veterans have, and in some cases have not, received.

This legislation would require VA to take a new approach in caring for these veterans, beginning with creating and funding demonstration programs to test new approaches to treating Persian Gulf veterans with undiagnosed or ill-defined conditions. Among the approaches VA is to develop under the bill are the use of case managers to oversee all facets of the veteran's care, establishment of specialized clinics serving only Persian Gulf veterans, and the use of multidisciplinary treatment aimed at symptom management. The bill would also expand VA law regarding Persian Gulf veterans' eligibility for care to clarify that such veterans are eligible for care of any condition which may be due to their service in the gulf, whether or not such condition may be attributable to toxic substances or environmental hazards.

Our amendments to S. 714 would also extend a number of expiring health care programs on which our veterans depend. I am very pleased that the bill includes provisions I authored which give VA ongoing authority to provide noninstitutional care and services to the elderly, and which extend, streamline, and improve VA programs serving veterans who are chronically mentally ill and the homeless. This legislation gives VA the tools it needs to serve this population, as well as to work in partnership with communities to help eradicate veteran homelessness. I am pleased that, increasingly, VA is expanding its partnership activities in this and other areas. In that regard, this bill would also enable VA to develop more beneficial public/private partnerships. In adopting provisions passed by the House in April, this measure would allow VA to expand an effective program of leasing unused property for development of facilities such as assistive living facilities, day care centers, and other uses that can benefit veterans or the medical centers that serve them.

The legislation also provides needed authorization for a limited number of VA medical facility construction and leasing initiatives for fiscal year 1998.

I am pleased at what we have accomplished for our veterans in this legislation. I would acknowledge that a number of House-passed provisions on which the Senate had held no hearing are not included in this measure. These provisions include sections 7 and 8 of H.R. 2206. Section 7 would have provided a needed exemption of VA research personnel from an existing policy aimed at reducing the number of VA personnel in certain employment grades. While our committee has not objected to efforts to reduce the numbers of middle management positions in the VA, the failure to exempt researchers is particularly shortsighted and damaging to a program so integral to VA's health care mission. We strongly urge that the Department adopt an exemption, and not wait for us to enact this provision next session. The enactment of section 8 of H.R. 2206 would have ruled out future legislative efforts to open the Federal supply schedule on pharmaceuticals. The committee recognizes, however, that in repealing section 1555 of the Federal Acquisition Streamlining Act of 1994 this year, Congress has, as a matter of law, effectively rejected as ill-advised the concept of opening the Federal supply schedule to cooperative purchasing.

Overall, this is an excellent bill. I urge Members to support it.

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

I want to thank everybody who has worked on making this legislation happen, particularly the committee's staff. On our side, I would like to recognize the contribution of Mike Durishin, Jill Cochran, Mary Ellen McCarthy, Susan Edgerton, Sandra McClellan, Adam Sachs, Debbie Smith, Beth Kilken, and Tom O'Donnell. They have been of great assistance to us, particularly me in my first year in this position as ranking Democratic member, and we appreciate their time and energy.

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

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations.

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

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Arizona [Mr. STUMP] for yielding me the time.

Mr. Speaker, I rise in strong support of S. 714, the Homeless Veterans Act. I commend the gentleman from Arizona [Mr. STUMP], the distinguished chairman of the Committee on Veterans' Affairs, and the gentleman from New York [Mr. QUINN], the chairman of the Subcommittee on Veterans' Benefits, for bringing this measure to the floor before this session adjourns.

This bill reauthorizes a pilot program which permits the VA to make direct housing loans to native American veterans through December 2003, which extends the authority of the VA to enter into enhanced-use leases through December 31, 1999. Such leases permit the VA to have the ability to use underutilized property through leases with private and public entities.

Moreover, this legislation also extends for 2 years the VA's authority to operate a health professional scholarship program as well as to provide noninstitutional alternatives to veterans' nursing home care and also provides funding for spina bifida cases, which need a great deal of attention.

Accordingly, I urge our colleagues to join in supporting this important legislation which will significantly aid our veterans.

Mr. EVANS. Mr. Speaker, I yield whatever time I have remaining for

purposes of control to the gentleman from Arizona [Mr. STUMP], the chairman of the full committee.

Mr. STUMP. Mr. Speaker, I thank the gentleman from Illinois [Mr. EVANS] for yielding me the time.

I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

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Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of this legislation and to say that, sadly, when it comes to the diagnosis and treatment and research for gulf war veterans, we find the Federal Government has too often had a tin ear and a cold heart and frankly a very closed mind. I do not view this as a political problem or a challenge that rests with one party, Republican or Democrat. Sadly, the Veterans Administration, the Department of Defense, the Central Intelligence Agency, and even the Food and Drug Administration have not been responsive to our veterans.

As the Chair of a panel that did 11 hearings and made recommendations on this issue, one of the key components is that we ultimately need, in my judgment, to bring research out of the control of the DOD and VA and give it to an agency that will begin to focus more on the chemical components of the myriad of illnesses that affect our veterans.

I urge both the Committee on Veterans' Affairs and the Committee on National Security to put even more focus on this. I know that the President's commission has come out with some recommendations. The Subcommittee on Human Resources of the Committee on Government Reform and Oversight has come out with some recommendations. I think we are at a point where we clearly need to recognize that our troops are not being properly diagnosed, they are not being effectively treated, and they are not being fairly compensated. But I think we are at a point where we are starting to see that change. I know that with the help of the gentleman from Arizona [Mr. STUMP] and the help of the gentleman from Illinois [Mr. EVANS], we are going to see renewed energy in this area. I think this bill is a start in that process and for that, I am grateful. I thank both gentlemen.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee, and also the chairman of the Subcommittee on Military Personnel of the Committee on National Security.

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding me this time. Let me congratulate the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] for their work on this bill. I would like to discuss section 103 of this bill. I am disappointed that coming out of the conference with the House and the Senate, the language that the House adopted has in fact been changed. We were seeking to have an independent commission to review what I find to be the very poor culture that is in the Nation's second largest agency, that of the VA. There is not any Member of this House that has taken on the issue of race and gender that I have over the past year with what occurred at Aberdeen in sexual misconduct in the military. The gentlewoman from California [Ms. HARMAN], the gentlewoman from Florida [Mrs. FOWLER] and I have traveled the world to our military bases and looked at those issues on gender and race relations. We have taken on the systems and subsystems in the military, and we have been very aggressive.

When we turned our eyes upon the VA itself, we began to see a culture problem within the VA, a system whereby the victims were being revictimized through the Office of General Counsel. We saw individuals in their leadership kind of give a wink and a nod to a hostile workplace. Let me congratulate the gentleman from Alabama [Mr. EVERETT] and the gentleman from Arizona [Mr. STUMP] for taking these issues right on and the gentleman from South Carolina [Mr. CLYBURN] on the oversight.

Why I was seeking to have an independent commission is I wanted it stripped completely out of the hands of the VA because of my lack of trust in those who are doing the oversight in the VA itself. I recognize in the language in here, they have been very careful to make sure that there is some insurance here. We are asking the Secretary to have an agreement to make sure that the entity carries out its responsibilities and exercises judgments concerning the assessments in a manner free of any influence. That means I do not want to hear anything over the next year that the VA somehow is scrubbing the contractor or getting some kind of review or pressures. If that is going to happen, I am going to be pretty upset. Because I know what happens when we do independent contracting with the Pentagon. The Pentagon today will ask us an issue and it is politically sensitive and they begin to control and manipulate the contractor. I want to make sure that we have a work environment in the VA that is free of these hostilities. I want to make sure that we have a system there that stops the revictimizing of the victim because it is very difficult for us to actually measure how does that impact upon the care to the veteran itself.

Let me congratulate the gentleman from Arizona [Mr. STUMP], because the gentleman from Arizona [Mr. STUMP], the gentleman from Illinois [Mr. EVANS] and others, want to make sure that we have a good system. I hope and I pray that what has been worked out here is, in fact, going to meet the ends for which the gentleman from Arizona and I both want. My message for coming here to the well today is that I will be watching and I know the gentleman from Arizona will, too, over the contract. I will be watching the VA just like the gentleman from Alabama [Mr. EVERETT] has done on the oversight to make sure that there are no manipulations whatsoever with the contractor and that the assessment that is done is completely independent, because if they do not, we are coming down on them hard.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman for his kind remarks.

Mr. Speaker, I would like to thank Senator SPECTER, Senator ROCKEFELLER and the staff of the Senate Veterans' Affairs Committee for their hard work in reaching an agreement on this bill.

I also want to thank the members of the House Committee on Veterans' Affairs who participated in the development of this legislation with the Senate. The gentleman from Illinois [Mr. EVANS], the ranking member, has been very cooperative through this entire process. The gentleman from Alabama [Mr. EVERETT], the gentleman from Florida [Mr. STEARNS], and the gentleman from New York [Mr. QUINN], the subcommittee chairmen; the gentleman from South Carolina [Mr. CLYBURN], the gentleman from Illinois [Mr. GUTIERREZ], and the gentleman from California [Mr. FILNER], the ranking members, also put in a great deal of time to move this committee's agenda.

I especially want to thank the gentleman from Louisiana [Mr. COOKSEY] and the gentleman from Arkansas [Mr. SNYDER]. Both are physicians and both are members of this committee. We have indeed been very fortunate to have them. They were especially helpful in negotiations with the Senate.

I would like to thank the staff of the House Committee on Veterans' Affairs for their diligent work on behalf of America's veterans. Three staff members will be leaving us this year: Ira Greenspan, Allison Clarke, and Sloan Rappoport.

On behalf of all committee members, I want to express our deepest appreciation for all their hard work and efforts and wish them the very best in their future endeavors.

Mr. Speaker, I include for the RECORD a detailed joint explanatory statement of the provisions considered during our deliberations on this measure.

JOINT EXPLANATORY STATEMENT FOR S. 714, THE PROPOSED ''VETERANS BENEFITS ACT OF 1997''

S. 714, the proposed ''Veterans Benefits Act of 1997'' reflects a compromise agreement the Senate and House of Representatives Committees on Veterans' Affairs have reached on a number of bills considered in the Senate and House during the 105th Congress, including H.R. 1092, passed by the House on April 16, 1997, H.R. 1703, passed by the House on October 6, 1997, H.R. 2206, passed by the House on October 6, 1997, H.R. 2571, passed by the House on October 6, 1997, S. 714, passed by the Senate on November 5, 1997, S. 986, ordered reported by the Senate Committee on

October 7, 1997, S. 801, ordered reported by the Senate Committee on October 7, 1997, and S. 999, ordered reported by the Senate Committee on October 7, 1997.

The Committees on Veterans' Affairs have prepared the following explanation of S. 714 (hereinafter referred to as the compromise agreement). Differences between the provisions contained in the compromise agreement and the related provisions in the bills listed above are noted in this document, except for clerical corrections and conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

VA EMPLOYMENT DISCRIMINATION RESOLUTION AND ADJUDICATION

Current law

Within the statutory framework of title VII, United States Code, the Equal Employment Opportunity (EEO) complaint process for the Department of Veterans Affairs (VA) is governed by federal regulations and Equal Employment Opportunity Commission (EEOC) directives applicable to all federal agencies. The EEO program at VA is under the direction of the Deputy Assistant Secretary for Equal Opportunity, who reports to the Assistant Secretary for Human Resources and Administration.

The complaint process begins when a VA employee contacts a facility EEO counselor. That counselor is appointed by the facility director who is the EEO Officer for the facility and the custodian of the complaint process. Counseling allows an opportunity for informal resolution of a complaint at the local level. Most EEO counselors perform EEO duties in addition to unrelated VA responsibilities, and all EEO counselors report to the facility director. On receipt of a formal complaint, VA must advise the complainant that it is required to conduct a complete and fair investigation within 180 days. The notice also advises the complainant of the right to appeal the final decision to the EEOC. The facility director (EEO Officer) accepts formal complaints and refers those believed to be procedurally defective (about 25 percent a year) to the Office of General Counsel (OGC) for legal review. If any part of the complaint is accepted, the OGC advises the facility and requests the appointment of an EEO investigator to the case. The investigator provides a Report of Investigation to both the complainant and the EEO Officer.

The agency and complainant may settle the complaint at any point in the EEO process. If a settlement is not reached after the Report of Investigation has been received, the complainant may request either a final agency decision from VA without a hearing, or a hearing by an EEOC Administrative Judge and then a final agency decision. If the complainant is dissatisfied with the agency's final decision, he or she may appeal it to the EEOC Office of Federal Operations. The final step in the complaint process is a title VII civil action in Federal district court. The complainant has the right to file a civil action against the agency any time after 180 days have passed since the filing of a formal complaint with the EEOC Office of Federal Operations. Once in Federal Court, the complaint leaves the EEO administrative complaint system.

House bill

Section 2 of H.R. 1703 would direct the Secretary to establish a new VA employment discrimination complaint resolution system whose employees would be supervised by and report to an Assistant Secretary or Deputy Assistant Secretary for complaint resolution management. A new Office of Resolution Management (ORM) would be supported by district managers, field offices, full time EEO counselors and investigators, and 40 FTEE collateral duty counselors. In addition, the ORM would be authorized to make certain final agency decisions on procedural issues.

Section 3 of H.R. 1703 would establish a VA Office of Employment Discrimination Complaint Adjudication (OEDCA). The bill would transfer final agency decision authority on substantive issues from the Office of the General Counsel to OEDCA. The OEDCA, located in VA Central Office, would be a quasi-independent complaint adjudication unit. The Director of the OEDCA would report directly to the Secretary or Deputy Secretary. In addition to its complaint adjudication responsibilities, the OEDCA would be responsible for creating an efficient and effective complaint tracking system.

Section 4 of H.R. 1703 would provide an effective date of 90 days after enactment of this Act.

Section 5 of H.R. 1703 would establish an independent panel to review EEO and sexual harassment procedures within VA. The panel would be composed of six members—three appointed jointly by the chairman and ranking member of the House Committee on Veterans' Affairs, and three appointed jointly by the chairman and ranking member of the Senate Committee on Veterans' Affairs.

Senate bill

Section 2 of S. 801 would establish a structural component for the Office of Resource Management (ORM) which is identical to section 2 of H.R. 1703. Additionally, section 2 of S. 801 would require the VA Office of Inspector General to investigate allegations of discrimination against all GS–15s and above, and report to Congress and the Secretary. Section 2 would also require the Secretary to ensure that complainants may elect to consult with full-time EEO employees or part-time EEO employees. Section 2 would contain more specific reporting requirements including information on counseling relating to employment discrimination, the number and type of employment discrimination complaints, the status of such complaints, and the terms of any settlement.

Section 3 of S. 801 is identical to section 3 of H.R. 1703.

Section 4 of S. 801 would require the Secretary to contract with a private entity to assess VA's discrimination complaint resolution system. The assessment would include a study of the effectiveness of the training and maintenance of groups of VA employees assigned to investigate claims and provide counseling; the education and training of VA employees regarding their rights and obligations under EEO laws; the use of alternative dispute resolution procedures and settlements in resolving EEO complaints; and other programs, procedures or activities of VA relating to the EEO laws.

Section 5 of S. 801 is identical to section 4 of H.R. 1703.

Compromise agreement

Section 101 follows section 2 of the House bill except that it requires VA to transmit a quarterly notice to the Committees on Veterans' Affairs of the House and Senate which summarizes each employment discrimination complaint filed in the preceding quarter against certain high ranking VA employees. The notice will not include the name of the individual who filed the complaint or name of the individual against whom the complaint is filed. The notice will summarize the nature of the allegations and identify the VA EEO regional field office at which the complaint was filed. The notice will also include a redacted copy of the complaint of employment discrimination and any attachments. Section 101 also requires the Secretary to ensure that complainants may elect to consult with fulltime EEO employees or part-time EEO employees. Section 101 contains the expanded reporting requirements included in the Senate bill.

Section 102 follows section 3 of the House bill.

Section 103 follows section 4 of the Senate bill, with an additional requirement that the Secretary ensure the independence of the private entity conducting the assessment of VA's employment discrimination complaint resolution system.

NATIVE AMERICAN HOME LOAN PROGRAM

Current law

Subchapter V of chapter 37, title 38, United States Code, authorizes the Secretary of the Department of Veterans Affairs (VA) to conduct a pilot program making direct loans to Native Americans to purchase, construct, renovate, or refinance homes on trust land. The Secretary is required to enter into a memorandum of understanding (MOU) with the various tribal governments prior to making any such loans. The MOU must give the Secretary access to the property for any purpose such as appraisal or monitoring of construction in connection with the loan. Tribal governments must agree to assist with the implementation in a responsible and prudent manner.

The maximum loan amount is $80,000 unless the Secretary determines that local housing costs justify a higher amount. The Secretary is required to establish appropriate credit underwriting standards which give consideration to the purpose of the program. The Secretary is also required to conduct an outreach program to educate tribal organizations and Native American veterans about the program. The program expired September 30, 1997.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 1 of S. 714 would extend the authority to carry out this program through December 31, 2003, and add provisions regarding specific outreach requirements. These include consulting about the housing needs of Native Americans with the National Congress of American Indians, the National American Indian Housing Council and the Department of Hawaiian Homelands, as well as distributing information to tribal organizations. The bill also requires an annual report by February 1 of each year detailing the operations of the program, outreach activities and an analysis of the pool of Native American veterans who are eligible for participation in the program.

Compromise agreement

Section 201 includes the Senate provisions with added outreach and reporting requirements and extends VA's program authority to December 31, 2001.

TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

Current law

Current law includes several provisions which authorize specific VA programs to assist homeless veterans and to contract for residential care for homeless veterans, mentally ill veterans, and veterans suffering from substance abuse or dependence.

Section 1720A of title 38, United States Code, permits the Secretary to contract for care, treatment, and rehabilitative services in various treatment facilities—subject to a review of the quality and effectiveness of its programs—for eligible veterans suffering from alcohol or drug dependence or abuse disabilities.

The Secretary is also given the authority to work in consultation with the Secretary

of Labor and the Director of the Office of Personnel Management to urge federal agencies and appropriate private companies to provide employment opportunities to those veterans who have completed such programs.

Under this section of law, the Secretary is directed to provide referral services to non-eligible veterans who seek alcohol or drug dependence assistance.

The authority to furnish such care expires after December 31, 1997.

The Secretary was also tasked with conducting ongoing clinical evaluations of drug and alcohol abuse treatment to veterans, and to report to Congress on the findings.

Section 115 of Public Law 100–322 (as extended through subsequent laws) authorizes the VA to conduct a pilot program to provide care, treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to eligible homeless veterans suffering from chronic mental illness disabilities. This program is set to expire on December 31, 1998.

Section 7 of Public Law 102–54 authorizes the Secretary to carry out a compensated work therapy and transitional housing demonstration program, which expires on December 31, 1997.

Section 107 of the Veterans' Medical Programs Amendments of 1992 requires the Secretary to (1) assess all programs developed by VA facilities which have been designed and established to assist homeless veterans; and (2) to the maximum extent practicable, seek to replicate at other VA facilities those programs which have as a goal the rehabilitation of homeless veterans. It also requires directors of VA medical centers and regional benefits offices, in coordination with non-VA organizations with experience working with local homeless persons, to develop lists of all programs assisting homeless persons and encourages the cooperative development of a local plan for coordinating services for homeless veterans. The law also requires VA medical center directors and regional office directors to meet, to the maximum extent feasible through existing programs and available resources, the identified needs of homeless veterans and attempt to inform homeless veterans whose needs cannot be met of services available in the area.

Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992 requires the Secretary to establish and operate, through September 30, 1997, a pilot program to expand and improve the provision of benefits and services by the Department of Veterans Affairs to homeless veterans. VA is authorized to operate up to eight demonstration programs, and each site shall include a comprehensive and coordinated array of specialized services.

House bill

Section 2(a) of H.R. 2206 would consolidate, extend and revise, in part, Department of Veterans Affairs progams which serve veterans who are homeless or suffer from chronic mental illness or substance abuse or dependence. It would amend chapter 17 to title 38, United States Code, by adding a new subchapter entitled ''Treatment and Rehabilitation for Seriously Mentally Ill and Homeless Veterans.''

New section 1771 would authorize the Secretary to provide outreach services; care, treatment, and rehabilitative services; and therapeutic transitional housing assistance to veterans suffering from serious mental illness, including veterans who are homeless.

New section 1772 would authorize the Secretary, in conjunction with operating compensated work therapy programs, to operate residences and facilities as therapeutic housing. The provision would give the Secretary latitude to purchase, lease, or otherwise acquire residential housing in such a way as to best expedite the opening and operation of transitional housing. Such housing would be subject to requirements specified in the bill, to include a requirement that only eligible veterans and a house manager may live at a residence; veterans residents would be required to make payments that contribute to covering their board and the operating costs of the facility. Furthermore, residents would be prohibited from drinking or taking drugs and would be subject to drug testing. Any resident in violation of this policy could be expelled. All zoning, building permit, and other similar community requirements—as well as State and community fire and safety requirements—would be applicable. The measure would authorize the Secretary to set reasonable payment rates for residents, limit the duration of each veteran's residence, and establish qualifications for the house manager. The Secretary would have broad authority in selecting property to be established as transitional housing. The Secretary could consider any suitable defaulted residential property, any suitable space within a facility already under the Department's jurisdiction but no longer in use, and any other property acquired by the Department. The measure makes specific provision for the transfer of defaulted property from the Veterans Benefits Administration as well as obtaining property from the Department of Housing and Urban Development. The Secretary may dispose of any property acquired for this purpose and funds obtained by such a sale would go to the General Post Fund. Section 1772 would also provide that payments received by the VA under this section be deposited in the General Post Fund. The measure would require the Secretary to manage the program so that expenditures for any fiscal year do not exceed by more than $500,000 proceeds credited to the General Post Fund under this section. Operating funds and receipts would be accounted for separately and would each be stated in the President's budget for each fiscal year.

New section 1773 would direct the Department, subject to the availability of appropriations, to operate no fewer than eight comprehensive-services centers to assist homeless veterans.

New section 1774 would, subject to available funding, require VA, in assisting homeless veterans, to coordinate, and permit the Department to provide authorize services in conjunction with other agencies of State, local, and Federal government, and non-governmental organizations. It would also require VA facility directors to assess and identify local homeless veterans, needs and the adequacy of existing programs to meet those needs, and take appropriate action, to the extent practicable to meet those needs. Such assessments are to identify homeless veterans' needs in the areas of health care, education and training, employment, shelter, counseling, and outreach services. Each assessment is also to comment on the adequacy of current VA programs with regards to these needs. This section would also require local VA officials to work with other governmental entities and homeless advocacy groups to develop a list of programs designed to assist homeless persons and homeless veterans in the area; provide outreach to the developers of local homeless programs to coordinate the provision of services to homeless veterans; attempt to identify and meet the needs of homeless veterans; and inform the homeless veteran population in the area whose needs cannot be met by the VA director of services available to such veterans in the community.

Senate bill

Section 2(a) of S. 714 would extend the VA's authority under section 1720A of title 38, United States Code, to treat and rehabilitate veterans with alcohol or drug dependence or abuse disabilities through December 31, 1999.

Section 2(c) of S. 714 would extend the VA's authority to provide community-based care to homeless veterans under the Veterans' Benefits and Services Act of 1988 through December 31, 1999.

Section 2(d) of S. 714 would extend the VA's Compensated Work Therapy and Therapeutic Transitional Housing demonstration program under Public Law 102–54 through December 31, 1999.

Section 2(e) of S. 714 would amend the Homeless Veterans Comprehensive Service Programs Act of 1992 to extend through September 30, 1999 (1) VA's authority to operate comprehensive service centers to assist homeless veterans, (2) VA's authority to make grants and to assist homeless veterans, and (3) the authorization of appropriations for that Act.

Compromise agreement

Section 202 generally follows the House bill, except that the program authorities would include a sunset date of December 31, 2001.

SALE OR LEASE OF VA PROPERTIES TO HOMELESS PROVIDERS

Current law

Section 3735 of title 38, United States Code, authorizes the Secretary of the VA to sell, lease or donate foreclosed VA properties to nonprofit organizations or a State or political subdivision of a State for the purpose of assisting homeless veterans and their families in acquiring shelter. Properties eligible for transfer under this program are those not likely to be sold at a price that would reduce the VA's liability on the property. Providers must comply with all zoning codes and agree to use the property to shelter primarily homeless veterans and their families. The Secretary may make loans on such properties at below-market rates and may waive all fees required under section 3729 of title 38, United States Code. The program expires December 31, 1997.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 2 of S. 714 would extend the authority to carry out this program through December 31, 1999.

Compromise agreement

Section 203(a) includes the Senate provision.

EXTENSION OF HOMELESS VETERANS COMPREHENSIVE SERVICE GRANT PROGRAM

Current law

Section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 USC section 7721 note) authorizes the Secretary to establish and operate a grant program to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans. This program expired on September 30, 1997 and limited the Department to providing grants for no more that 25 service centers and no more than 20 programs which incorporate the procurement of vans for use in outreach to, and transportation for, homeless veterans to carry out the intention of the law.

House bill

Section 3 of H.R. 2206 would extend VA's authority to make such grants to September

30, 1999 and would strike the limitation on the number of grants which may be awarded for specified purposes.

Senate bill

Section 2(e)(2) of S. 714 would extend the grant program until September 30, 1999.

Compromise agreement

Section 203(b) follows the Senate bill.

HOMELESS VETERANS REINTEGRATION PROJECT

Current law

The Stewart B. McKinney Homeless Assistance Act (title 42, section 11448(e)(1)) authorizes the Department of Labor to provide grants to community based organizations focusing on returning homeless veterans to the work force. The program is administered by the Veterans Employment and Training Service. From 1988 through 1996, the program served over 41,000 homeless veterans, placing over 18,000 in jobs. The program expires December 31, 1997.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 4(e) of S. 714 would amend the Stewart B. McKinney Homeless Assistance Act (title 42, section 11448(e)(1) to extend the expiration date of the Homeless Veterans Reintegration Project to December 31, 1999, and authorize expenditures up to $10,000,000 per year.

Compromise agreement

Section 203(c) includes the Senate provision.

ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS

Current law

Section 1001 of the Veterans Benefits Improvements Act of 1994 (38 USC section 7721 notes) requires that the Secretary, by April 15 of each year, submit to the Committees a report on the activities of the VA's homeless programs. The annual report is to include the number of homeless veterans provided assistance under VA programs, the cost of providing these programs, and any other information the Secretary deems appropriate.

House bill

Section 4 of H.R. 2206 would expand the scope of this reporting requirement. It would require the VA to report on its evaluation of the effectiveness of its programs relating to residential work therapy, outreach, community-based residential treatment, and case management, as well as contract care programs for alcohol and drug dependence or abuse disabilities. Further, it would require the Secretary to evaluate and report on the effectiveness of programs established through grants awarded under the Homeless Veterans Comprehensive Service Grant Program.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 204 follows the House bill.

ENHANCED-USE LEASES OF DEPARTMENT OF VETERANS AFFAIRS REAL PROPERTY

Current law

Under section 8169 of title 38, United States Code, the Secretary's authority to enter into enhanced-use leases of Department of Veterans Affairs real property expires after December 31, 1997.

Section 8168 of title 38, United States Code, limits the number of enhanced-use leases (other than leases for child care centers) which the Secretary may execute to 20, and sets a 10-project cap on such leases during any one fiscal year.

House bill

Section 101 of H.R. 1052 would extend the Secretary's authority to enter into such leases to December 31, 2002 and would repeal the limits on the number of enhanced-use leases which the Secretary may execute.

Senate bill

Section 3 of S. 714 would change the limit from 20 to 40 and extend the program until December 31, 1999.

Compromise agreement

Section 205 generally follows the House bill except that the program would expire on December 31, 2001.

NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE

Current law

Section 1720C of title 38, United States Code, authorizes the Secretary to conduct a pilot program for the furnishing of medical, rehabilitative and health-related services in noninstitutional settings for eligible veterans for nursing home care. This provision authorizes VA services through December 31, 1997.

House bill

Section 5 of H.R. 2206 would provide ongoing authority for this program.

Senate bill

Section 4 of S. 714 would extend the program through December 31, 1999.

Compromise agreement

Section 206 follows the House bill.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

Current law

Section 7611 of title 38, United States Code, authorizes the Department to institute the Department of Veterans Affairs Health Professional Scholarship Program, which gives students the opportunity to receive VA health care scholarships in exchange for a specified period of employment in VA after graduation. In authorizing an extension of that program through December 31, 1997, Congress in section 202 of Public Law 104–110 required the Department to evaluate the efficacy of the program and compare its costs and benefits with alternative approaches to ensure adequate recruitment and retention of health professionals. The Department failed to carry out that report requirement.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 4(b) of H.R. 714 would extend the program through December 31, 1999.

Compromise agreement

Section 207 would extend the program to December 31, 1998 and would also require that the Department report to Congress within six months in accordance with the requirement in Public Law 104–110.

MAMMOGRAPHY STANDARDS

Current law

Section 106(a)(2) of the Veterans Health Care Act of 1992 (38 USC 1710 note) provides that the Department may provide breast examinations and mammography to women veterans.

House bill

The House bill contains no comparable provision.

Senate bill

S. 999 would specify that the Department follow the recommendations of the American Cancer Society regarding the frequency of screening mammograms for women in specific age groups.

Compromise agreement

Section 208 would require the VA's Under Secretary for Health to develop a national policy for the VHA with respect to mammography standards for veterans. Such a policy would specify standards of mammography screening and include recommendations on screening for women over the age of 39 and veterans with clinical symptoms, risk factors or family history of breast cancer. The section would also provide for clinician discretion on this matter. Additionally, the section includes a section (c) Sense of the Congress, that the policy adopted by VHA in sections (a) and (b) shall be in accordance with the guidelines endorsed by the Secretary of Health and Human Services and the Director of the National Institutes of Health.

PERSIAN GULF WAR VETERANS

Current law

Section 703 of Public Law 102–585, as amended, directs the VA to provide a health examination (including any appropriate diagnostic tests), consultation, and counseling with respect to the results of such an examination to any Persian Gulf War veteran who requests such an examination. Such examination findings are also to be included in a Persian Gulf War Veterans health registry, to be maintained by the VA.

Section 1710(e)(1)(c) of title 38, United States Code, provides eligibility for care, through December 31, 1998, to any veteran of the Persian Gulf War who may have been exposed to a toxic substance or environmental hazard during such service for any condition which may be associated with such exposure.

House bill

Section 6(a) of H.R. 2206 would specify that Persian Gulf veterans shall be verbally counseled on the results of health examinations carried out under section 703 of Public Law 102–582, as amended.

Section 6(b) of H.R. 2206 would clarify that a Persian Gulf veteran is eligible for VA health care for any condition—not just for exposure of a toxic substance or environmental hazard—which may be associated with service in the Gulf.

Section 6(c) of H.R. 2206 would direct the Secretary to carry out a program of demonstration projects designed to test innovative approaches to treating Persian Gulf veterans at up to 10 VA medical centers across the country. Three treatment models—a specialized Persian Gulf clinic, a multidisciplinary treatment program aimed at managing symptoms, and the use of case managers—would be used at at least two demonstration sites. The Secretary is required to provide $5 million in appropriated funds for use in carrying out these projects. Before a location has been designated as a demonstration site, a peer review panel must determine the efficacy of the selection, using as its criteria the facility's ability to attract outstanding and innovative physicians to the project and to effectively evaluate the activities of the project.

Senate bill

The Senate bill contains no comparable provisions.

Compromise agreement

Section 209 follows the House bill except that it does not include Section 6(a), which contains a provision relating to VA counseling of Persian Gulf veterans.

REPORT ON MEDICAL EMERGENCIES ARISING FROM TERRORISM

House bill

The House bill contains no provision changing current law.

Senate bill

Section 432 of S. 986 requires the President by March 1, 1998, to submit to Congress a report on plans, preparations and the capability of all levels of government to respond nationally to medical emergencies arising from

the terrorist use of weapons of mass destruction. The report is to be prepared in consultation with specified departments and agencies of the Federal government, and the President is to designate a lead agency for purposes of preparing the report. The section specifies matters to be included in such report, including a description of steps taken to prepare to respond to such emergencies; a description of existing obligations, roles, and lines of authority within government for such a situation; an assessment of current level of preparedness and listing of existing medical assets available to respond; and estimated costs of government agencies and departments to prepare for and carry out their respective roles.

Compromise agreement

Section 210 follows the Senate bill.

CONSTRUCTION AUTHORIZATION

AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS

Current law

Section 8104(a)(2) of title 38, United States Code, provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility project unless funds for that project have been specifically authorized by law.

House bill

Section 1(1) of H.R. 2571 would authorize the Secretary to carry out a seismic corrections project at the Memphis VA Medical Center in an amount not to exceed $34.6 million.

Section 1(2) of H.R. 2571 would authorize the Secretary to make seismic corrections and other improvements at the McClellan Hospital in Sacramento, California using up to $48 million in previously appropriated funds.

Section 1(3) of H.R. 2571 would authorize the Secretary to carry out outpatient improvement projects with already-appropriated funds at facilities in Mare Island, Vallejo, California and Martinez, California in an amount not to exceed $7 million.

Senate bill

Section 201 of S. 986 contains provisions substantively similar to section 1(1) of H.R. 2571.

S. 986 contains no comparable provision to sections 1(2) and 1(3) of H.R. 2571.

Compromise agreement

Section 301 follows the House bill.

AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES

Current law

Section 8104(a)(2) of title 38, United States Code, provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility lease unless funds for that lease have been specifically authorized by law.

House bill

Section 2 of H.R. 2571 would authorize the Secretary to carry out the following leases of satellite outpatient clinics: Jacksonville, FL, $3.095 million; Boston, MA, $5.215 million; Canton, OH, $2.115 million; Portland, OR, $1.919 million; and Tulsa, OK, $2.112 million.

Section 2 of H.R. 2571 would authorize the Secretary to carry out the following leases of information resources management field offices: Birmingham, AL, $595,000; and Salt Lake City, UT, $652,000.

Senate bill

Section 202 of S. 986 contains provisions identical to section 2 of H.R. 2571, except that the lease for the satellite outpatient clinic in Canton, OH is authorized for $735,000.

Compromise agreement

Section 302 follows the House bill.

AUTHORIZATION OF APPROPRIATIONS

Current law

Section 8104(a)(2) of title 38, United States Code, provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility lease unless funds for that project or lease have been specifically authorized by law.

House bill

Section 3(a)(1) of H.R. 2571 would authorize to be appropriated to the Department of Veterans Affairs for fiscal year 1998 $34.6 million for the Construction, Major Projects account to be used for major medical facility projects.

Section 3(a)(2) of H.R. 2571 would authorize to be appropriated to the Department of Veterans Affairs for fiscal year 1998 $15.703 million for the Medical Care account to be used for major medical facility leases.

Section 3(b) of H.R. 2571 would limit the authorized projects to be carried out using only (1) specifically authorized major construction funds appropriated for fiscal year 1998; (2) funds appropriated for Construction, Major Projects before fiscal year 1998 that remain available for obligation; and (3) funds appropriated for Construction, Major Projects, for fiscal year 1998 for a category of activity not specific to the project.

Senate bill

Section 203(a) of S. 986 would authorize appropriations for Fiscal Years 1998 and 1999. It would authorize a $34.6 million appropriation for the Construction, Major Projects account and a $14.323 million appropriation for the Medical Care account.

Section 203(b) differs from section 3(b) of H.R. 2571 only in that both fiscal years 1998 and 1999 are included.

Compromise agreement

Section 303 follows the House bill.

CLARIFICATION ON ELIGIBILITY FOR HEALTH CARE

Current law

In amendments to section 1710 in Public Law 104–262, Congress provided, in pertinent part, that VA ''shall'' (subject to available appropriations) furnish hospital care and medical services to a veteran ''who has a compensable service-connected disability'' (38 U.S.C. section 1710(a)(2)(A). Section 1710(a)(2)(B) of title 38, United States Code, reflects similar terminology in providing for care of any veteran discharged or released for active service ''for a compensable' disability''.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 412(a) of S. 986 would strike the word compensable from section 1710(a)(2)(B), as amended by P.L. 104–262.

Compromise agreement

Section 402(a) follows the Senate provision.

HOME IMPROVEMENTS

Current Law

A technical amendment in the Veterans' Health Care Eligibility Reform Act of 1996 was construed by the Department as having had the effect of limiting to so-called ''category A'' veterans' eligibility for VA payments for home improvements and structural alterations. Higher-income (''category C'') veterans, who had been eligible for a one-time $1200 benefit under prior law, were deemed ineligible under the change

House bill

Section 9(a) of H.R. 2206 would amend section 1717(a)(2)(B) of title 38, United States Code, to clarify that category C veterans under VA treatment are eligible for the one-time $1200 home improvement/structural alteration benefit.

Senate bill

Section 412(b) of S. 986 contains a similar provision.

Compromise agreement

Section 402(b) follows the Senate bill.

TRANSFERS TO COMMUNITY NURSING HOMES

Current law

Under section 1720 of title 38, United States Code, VA may only transfer to, and provide for care in, a community nursing home, veterans who have received VA inpatient care. Existing law makes no provision for such transfer and placement on the part of a veteran who, in the course of VA provision of ambulatory treatment, is found to need nursing home care.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 412(c) of S. 986 would strike the limitation in section 1720 of title 38, United States Code, which restricts VA transfers and placements into community nursing homes to veterans receiving inpatient care, and would authorize such needed placements for any veteran under care in a VA facility.

Compromise agreement

Section 402(c) follows the Senate provision.

SHARING OF HEALTH-CARE RESOURCES: PURCHASING

Current law

Under section 8153 of title 38, United States Code, VA may enter into agreements with any entity to buy health care resources. Where VA proposes to obtain such resources from an affiliated institution or organization, it may do so, under section 8153(a)(3)(A), ''without regard to any law or regulation'' requiring competition. VA may also procure such resources from a source other than an affiliated entity under simplified procedures aimed at promoting competition to the maximum extent practicable; such ''simplified procedures . . . shall permit all responsible sources to submit a bid. . . .'' (38 USC section 8153(a)(3)(B)).

House bill

The House bill contains no provision changing current law.

Senate bill

Section 412(d) of S. 986 would amend section 8153(a)(3)(A) to clarify that purchases of resources from an affiliated entity are exempt from otherwise applicable requirements for competition not only in law or regulation but also in any Executive order, circular, or other administration policy. Section 412(e) of S. 986 would amend section 8153(a)(3)(B) to clarify that VA may reasonably limit the number of sources sought for bids under its authority to employ simplified procedures.

Compromise agreement

Sections 402(d) and 502(e) follow the Senate provision

HOSPITAL REFERENCE

Current law

The VA medical facility in Columbia, South Carolina is named the ''Wm. Jennings Bryan Dorn Veterans' Hospital''.

House bill

Section 9(b) of H.R. 2206 would redesignate this facility as the ''Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center''.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 403 follows the House bill.

Current law

SPINA BIFIDA

Current law

Chapter 18 of title 38, United States Code, authorizes the Secretary to provide medical care, compensation, and vocational training benefits for Vietnam veterans' children who are conceived following service in Vietnam and are born with spina bifida. The veteran must have been discharged under conditions other than dishonorable. Compensation in the amounts of $200, $700, and $1,200 is based on the severity of the disability. Children are eligible for up to 24 months of vocational training generally following completion of high school.

House bill

The House bill contains no provision changing current law.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

Section 404 includes technical and clarifying amendments to chapter 18 title 38, United States Code, including a provision to provide benefits regardless of the veteran's type of discharge.

COMPENSATION AND PENSION MEDICAL EXAMINATIONS

Current law

Physicians employed by the Veterans Health Administration may conduct disability examinations of veterans who have applied for VA monetary benefits. Section 504 of Public Law 104–272 authorizes VA to conduct a pilot program involving use of physicians who provide such examinations under contract arrangements. VA is to report on its experience under such program by October 1999.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 411 of S. 986 would add a new section 7704 to title 38, United States Code, which would authorize the Under Secretary for Benefits to reimburse the Under Secretary for Health for costs incurred in providing disability examinations.

Compromise agreement

The compromise bill contains no provision on this subject.

PERSONNEL POLICY

Current law

Section 711 of title 38, United States Code, requires the Secretary to report to Congress and delay for a specified period any systematic reduction in grade of employees engaged in direct patient care or who are professional employees and computer specialists.

House bill

Section 7 of H.R. 2206 would amend section 7425 of title 38, United States Code, to provide that Veterans Health Administration employees in positions involving the provision (or supervision) of patient care or the conduct of research are not subject to any reduction (required by law or Executive branch policy) in the number of percentage of employees or personnel positions within specified pay grades.

Senate bill

The Senate bill contains no comparable provisions.

Compromise agreement

The compromise bill contains no provision relating to this subject.

PURCHASES OF PHARMACEUTICAL PRODUCTS

Current law

The Federal Government, primarily through the General Services Administration, negotiates and awards contracts for products and services through federal supply schedules. The Government issues solicitations, receives offers from prospective vendors, negotiates with them on product and service prices, and award contracts. Such contracts give vendors the right to sell goods and services to the government during the period that the contract is in effect; federal agencies order products and services directly from a vendor and pay the vendor directly. Congress, by law, has authorized a variety of other entities, including certain Indian tribal governments, to make purchases from the federal supply schedule. The General Services Administration, which has responsibility for managing the federal supply schedules, has delegated responsibility for managing a number of such schedules, including the schedule for pharmaceuticals, to the Department of Veterans Affairs.

House bill

Section 8 of H.R. 2206 would amend section 8125 of title 38, United States Code, to provide that, notwithstanding any other provision of law, any product listed on the pharmaceutical Federal Supply Schedule may only be procured from that schedule by or for the federal government or any other entity specified in federal law or regulation as of July 1, 1997.

Senate bill

The Senate bill contains no similar provisions.

Compromise agreement

The compromise bill contains no provision relating to this subject.

PARKING FEES

Current law

Section 8109(d)(1) requires the collection of parking fees (other than from veterans and volunteers) at VA health care facilities under specified circumstances.

House bill

The House bill contains no provision changing current law.

Senate bill

S. 309 would prohibit the collection of parking fees at VA parking facilities used in connection with a medical facility which is operated jointly under a health care resources sharing agreement with the Department of Defense.

Compromise agreement

The compromise bill contains no provision relating to this subject.

SHARING OF HEALTH-CARE RESOURCES: SELLING

Current law

Under section 8153 of title 38, United States Code, VA may enter into agreements with any entity to sell health care resources. Section 8153(e) requires, as a precondition to VA's furnishing services to nonveterans under section, that VA make certain findings, including a determination ''that veterans will receive priority under such an arrangement''.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 412(f) of S. 986 would amend section 8153(a)(3)(B) to strike the language regarding veterans receiving a priority under such an arrangement and substitute language to require a determination that ''care to veterans will not be diminished as a result of such an arrangement''.

Compromise agreement

The compromise bill contains no provision on this subject.

CONSOLIDATION OF HOUSING LOAN REVOLVING FUNDS

Current law

Chapter 37 of title 38, United States Code, establishes the Direct Loan Revolving Fund, the Loan Guaranty Revolving Fund, and the Guaranty and Indemnity Fund at the Department of the Treasury for deposits and disbursements related to veterans' home loan guaranty and direct home loan programs.

House bill

The House bill contains no provision changing current law.

Senate bill

The Senate bill also contains no provision changing current law.

Compromise agreement

The compromise bill contains no provision on this subject.

RECOUPMENT OF SPECIAL SEPARATION INCENTIVES

Current law

Section 1174 of title 10 authorizes the Secretary of Defense to pay a special separation bonus to active duty service members who have served between six and 20 years. Separation pay is based on length of service and base pay at the time of separation. This pay is subject to taxation.

Section 1174(h) of title 10 and section 5304 of title 38 requires the Secretary of Veterans Affairs to offset the amount of compensation paid to a veteran due to service connected disability by an amount equal to special separation incentives. Section 653 of Public Law 104–201 limited VA's recoupment on special separation incentives made on or after September 30, 1996 to the net amount after taxes.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 431 of S. 986 would amend chapter 53 of title 38, to add a new provision limiting recoupment for any compensation paid after December 5, 1991 to 75 percent of the special separation pay.

Compromise agreement

The compromise bill contains no provision on this subject.

ENHANCE STATE CEMETERY GRANT PROGRAM

Current law

Chapter 24 of title 38, United States Code, authorizes the Secretary of Veterans Affairs to provide grants to States to establish new veterans' cemeteries or to expand or improve existing veterans' cemeteries owned by the State. Under this authority, VA may grant up to 50 percent of the cost of the land and improvements to that land. If the State owns the land at the time of the grant, the value of the land may be counted for up to 50 percent of the State's contribution.

House bill

The House bill contains no provision changing current law.

Senate bill

Section 421 of S. 986 contains provisions to increase the VA share of the project costs for

state veterans' cemeteries funded under the grant program. This provision would authorize the Secretary to grant up to 100 percent of the cost of improvements to the land to be purchased and up to 100 percent of the initial equipment costs. For existing cemeteries, the Secretary would be authorized to grant up to 100 percent of the cost of the improvements made to any additional land purchased for expansion or 100 percent of the cost of improvements to existing cemetery land.

Compromise agreement

The compromise bill contains no provision relating this subject.

N O T I C E

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

CONFERENCE REPORT ON S. 830, FOOD AND DRUG ADMINISTRATION MODERNIZATION ACT OF 1997

Mr. BLILEY submitted the following conference report and statement on the Senate bill (S. 830) 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, and for other purposes:

CONFERENCE REPORT (H. REPT. 105–399)

The Committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 830) 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, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Food and Drug Administration Modernization Act of 1997''.

(b) REFERENCES.—Except as otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.
Sec. 2. Definitions.

TITLE I—IMPROVING REGULATION OF DRUGS

Subtitle A—Fees Relating to Drugs

Sec. 101. Findings.
Sec. 102. Definitions.
Sec. 103. Authority to assess and use drug fees.
Sec. 104. Annual reports.
Sec. 105. Savings.
Sec. 106. Effective date.
Sec. 107. Termination of effectiveness.

Subtitle B—Other Improvements

Sec. 111. Pediatric studies of drugs.
Sec. 112. Expediting study and approval of fast track drugs.
Sec. 113. Information program on clinical trials for serious or life-threatening diseases.
Sec. 114. Health care economic information.
Sec. 115. Clinical investigations.
Sec. 116. Manufacturing changes for drugs.
Sec. 117. Streamlining clinical research on drugs.
Sec. 118. Data requirements for drugs and biologics.
Sec. 119. Content and review of applications.
Sec. 120. Scientific advisory panels.
Sec. 121. Positron emission tomography.
Sec. 122. Requirements for radiopharmaceuticals.
Sec. 123. Modernization of regulation.
Sec. 124. Pilot and small scale manufacture.
Sec. 125. Insulin and antibiotics.
Sec. 126. Elimination of certain labeling requirements.
Sec. 127. Application of Federal law to practice of pharmacy compounding.
Sec. 128. Reauthorization of clinical pharmacology program.
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TITLE II—IMPROVING REGULATION OF DEVICES

Sec. 201. Investigational device exemptions.
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Sec. 214. Practice of medicine.
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TITLE III—IMPROVING REGULATION OF FOOD

Sec. 301. Flexibility for regulations regarding claims.
Sec. 302. Petitions for claims.
Sec. 303. Health claims for food products.
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Sec. 305. Referral statements.
Sec. 306. Disclosure of irradiation.
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Sec. 308. Glass and ceramic ware.
Sec. 309. Food contact substances.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Dissemination of information on new uses.
Sec. 402. Expanded access to investigational therapies and diagnostics.
Sec. 403. Approval of supplemental applications for approved products.
Sec. 404. Dispute resolution.
Sec. 405. Informal agency statements.
Sec. 406. Food and Drug Administration mission and annual report.
Sec. 407. Information system.
Sec. 408. Education and training.
Sec. 409. Centers for education and research on therapeutics.
Sec. 410. Mutual recognition agreements and global harmonization.
Sec. 411. Environmental impact review.
Sec. 412. National uniformity for nonprescription drugs and cosmetics.
Sec. 413. Food and Drug Administration study of mercury compounds in drugs and food.
Sec. 414. Interagency collaboration.
Sec. 415. Contracts for expert review.
Sec. 416. Product classification.
Sec. 417. Registration of foreign establishments.
Sec. 418. Clarification of seizure authority.
Sec. 419. Interstate commerce.
Sec. 420. Safety report disclaimers.
Sec. 421. Labeling and advertising regarding compliance with statutory requirements.
Sec. 422. Rule of construction.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

SEC. 2. DEFINITIONS.

In this Act, the terms ''drug'', ''device'', ''food'', and ''dietary supplement'' have the meaning given such terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

TITLE I—IMPROVING REGULATION OF DRUGS

Subtitle A—Fees Relating to Drugs

SEC. 101. FINDINGS.

Congress finds that—

(1) prompt approval of safe and effective new drugs and other therapies is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications;

(3) the provisions added by the Prescription Drug User Fee Act of 1992 have been successful in substantially reducing review times for human drug applications and should be—

(A) reauthorized for an additional 5 years, with certain technical improvements; and

(B) carried out by the Food and Drug Administration with new commitments to implement more ambitious and comprehensive improvements in regulatory processes of the Food and Drug Administration; and

(4) the fees authorized by amendments made in this subtitle will be dedicated toward expediting the drug development process and the review of human drug applications as set forth in the goals identified, for purposes of part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the chairman of the Committee on Commerce of the House of Representatives and the chairman of

the Committee on Labor and Human Resources of the Senate, as set forth in the Congressional Record.

SEC. 102. DEFINITIONS.

Section 735 (21 U.S.C. 379g) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking ''Service Act, and'' and inserting ''Service Act,''; and

(B) by striking ''September 1, 1992.'' and inserting the following: ''September 1, 1992, does not include an application for a licensure of a biological product for further manufacturing use only, and does not include an application or supplement submitted by a State or Federal Government entity for a drug that is not distributed commercially. Such term does include an application for licensure, as described in subparagraph (D), of a large volume biological product intended for single dose injection for intravenous use or infusion.'';

(2) in the second sentence of paragraph (3)—

(A) by striking ''Service Act, and'' and inserting ''Service Act,''; and

(B) by striking ''September 1, 1992.'' and inserting the following: ''September 1, 1992, does not include a biological product that is licensed for further manufacturing use only, and does not include a drug that is not distributed commercially and is the subject of an application or supplement submitted by a State or Federal Government entity. Such term does include a large volume biological product intended for single dose injection for intravenous use or infusion.'';

(3) in paragraph (4), by striking ''without'' and inserting ''without substantial'';

(4) by amending the first sentence of paragraph (5) to read as follows:

''(5) The term 'prescription drug establishment' means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within five miles of each other and at which one or more prescription drug products are manufactured in final dosage form.'';

(5) in paragraph (7)(A)—

(A) by striking ''employees under contract'' and all that follows through ''Administration,'' the second time it occurs and inserting ''contractors of the Food and Drug Administration,''; and

(B) by striking ''and committees,'' and inserting ''and committees and to contracts with such contractors,'';

(6) in paragraph (8)—

(A) in subparagraph (A)—

(i) by striking ''August of'' and inserting ''April of''; and

(ii) by striking ''August 1992'' and inserting ''April 1997''; and

(B) in subparagraph (B)—

(i) by striking ''section 254(d)'' and inserting ''section 254(c)'';

(ii) by striking ''1992'' and inserting ''1997''; and

(iii) by striking ''102d Congress, 2d Session'' and inserting ''105th Congress, 1st Session''; and

(7) by adding at the end the following:

''(9) The term 'affiliate' means a business entity that has a relationship with a second business entity if, directly or indirectly—

''(A) one business entity controls, or has the power to control, the other business entity; or

''(B) a third party controls, or has power to control, both of the business entities.''.

SEC. 103. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) (21 U.S.C. 379h(a)) is amended—

(1) by striking ''Beginning in fiscal year 1993'' and inserting ''Beginning in fiscal year 1998'';

(2) in paragraph (1)—

(A) by striking subparagraph (B) and inserting the following:

''(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the application or supplement.'';

(B) in subparagraph (D)—

(i) in the subparagraph heading, by striking ''NOT ACCEPTED'' and inserting ''REFUSED'';

(ii) by striking ''50 percent'' and inserting ''75 percent'';

(iii) by striking ''subparagraph (B)(i)'' and inserting ''subparagraph (B)''; and

(iv) by striking ''not accepted'' and inserting ''refused''; and

(C) by adding at the end the following:

''(E) EXCEPTION FOR DESIGNATED ORPHAN DRUG OR INDICATION.—A human drug application for a prescription drug product that has been designated as a drug for a rare disease or condition pursuant to section 526 shall not be subject to a fee under subparagraph (A), unless the human drug application includes an indication for other than a rare disease or condition. A supplement proposing to include a new indication for a rare disease or condition in a human drug application shall not be subject to a fee under subparagraph (A), if the drug has been designated pursuant to section 526 as a drug for a rare disease or condition with regard to the indication proposed in such supplement.

''(F) EXCEPTION FOR SUPPLEMENTS FOR PEDIATRIC INDICATIONS.—A supplement to a human drug application proposing to include a new indication for use in pediatric populations shall not be assessed a fee under subparagraph (A).

''(G) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an application or supplement is withdrawn after the application or supplement was filed, the Secretary may refund the fee or a portion of the fee if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to refund a fee or a portion of the fee under this subparagraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.'';

(3) by striking paragraph (2) and inserting the following:

''(2) PRESCRIPTION DRUG ESTABLISHMENT FEE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), each person that—

''(i) is named as the applicant in a human drug application; and

''(ii) after September 1, 1992, had pending before the Secretary a human drug application or supplement,

shall be assessed an annual fee established in subsection (b) for each prescription drug establishment listed in its approved human drug application as an establishment that manufactures the prescription drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the prescription drug product named in the application is assessed a fee under paragraph (3) unless the prescription drug establishment listed in the application does not engage in the manufacture of the prescription drug product during the fiscal year. The establishment fee shall be payable on or before January 31 of each year. Each such establishment shall be assessed only one fee per establishment, notwithstanding the number of prescription drug products manufactured at the establishment. In the event an establishment is listed in a human drug application by more than one applicant, the establishment fee for the fiscal year shall be divided equally and assessed among the applicants whose prescription drug products are manufactured by the establishment during the fiscal year and assessed product fees under paragraph (3).

''(B) EXCEPTION.—If, during the fiscal year, an applicant initiates or causes to be initiated the manufacture of a prescription drug product at an establishment listed in its human drug application—

''(i) that did not manufacture the product in the previous fiscal year; and

''(ii) for which the full establishment fee has been assessed in the fiscal year at a time before manufacture of the prescription drug product was begun;

the applicant will not be assessed a share of the establishment fee for the fiscal year in which the manufacture of the product began.''; and

(4) in paragraph (3)—

(A) in subparagraph (A)—

(i) in clause (i), by striking ''is listed'' and inserting ''has been submitted for listing''; and

(ii) by striking ''Such fee shall be payable'' and all that follows through ''section 510.'' and inserting the following: ''Such fee shall be payable for the fiscal year in which the product is first submitted for listing under section 510, or is submitted for relisting under section 510 if the product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each product for a fiscal year in which the fee is payable.''; and

(B) in subparagraph (B), by striking ''505(j).'' and inserting the following: ''505(j), under an abbreviated application filed under section 507 (as in effect on the day before the date of enactment of the Food and Drug Administration Modernization Act of 1997), or under an abbreviated new drug application pursuant to regulations in effect prior to the implementation of the Drug Price Competition and Patent Term Restoration Act of 1984.''.

(b) FEE AMOUNTS.—Section 736(b) (21 U.S.C. 379h(b)) is amended to read as follows:

''(b) FEE AMOUNTS.—Except as provided in subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be determined and assessed as follows:

''(1) APPLICATION AND SUPPLEMENT FEES.—

''(A) FULL FEES.—The application fee under subsection (a)(1)(A)(i) shall be $250,704 in fiscal year 1998, $256,338 in each of fiscal years 1999 and 2000, $267,606 in fiscal year 2001, and $258,451 in fiscal year 2002.

''(B) OTHER FEES.—The fee under subsection (a)(1)(A)(ii) shall be $125,352 in fiscal year 1998, $128,169 in each of fiscal years 1999 and 2000, $133,803 in fiscal year 2001, and $129,226 in fiscal year 2002.

''(2) TOTAL FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (a)(2) shall be $35,600,000 in fiscal year 1998, $36,400,000 in each of fiscal years 1999 and 2000, $38,000,000 in fiscal year 2001, and $36,700,000 in fiscal year 2002.

''(3) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (a)(3) in a fiscal year shall be equal to the total fee revenues collected in establishment fees under subsection (a)(2) in that fiscal year.''.

(c) INCREASES AND ADJUSTMENTS.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

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

(2) in paragraph (1)—

(A) by striking ''(1) REVENUE'' and all that follows through ''increased by the Secretary'' and inserting the following: ''(1) INFLATION ADJUSTMENT.—The fees and total fee revenues established in subsection (b) shall be adjusted by the Secretary'';

(B) in subparagraph (A), by striking ''increase'' and inserting ''change'';

(C) in subparagraph (B), by striking ''increase'' and inserting ''change''; and

(D) by adding at the end the following flush sentence:

''The adjustment made each fiscal year by this subsection will be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 1997 under this subsection.'';

(3) in paragraph (2), by striking ''October 1, 1992,'' and all that follows through ''such

schedule.'' and inserting the following: ''September 30, 1997, adjust the establishment and product fees described in subsection (b) for the fiscal year in which the adjustment occurs so that the revenues collected from each of the categories of fees described in paragraphs (2) and (3) of subsection (b) shall be set to be equal to the revenues collected from the category of application and supplement fees described in paragraph (1) of subsection (b).''; and

(4) in paragraph (3), by striking ''paragraph (2)'' and inserting ''this subsection''.

(d) FEE WAIVER OR REDUCTION.—Section 736(d) (21 U.S.C. 379h(d)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively and indenting appropriately;

(2) by striking ''The Secretary shall grant a'' and all that follows through ''finds that—'' and inserting the following:

''(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of one or more fees assessed under subsection (a) where the Secretary finds that—'';

(3) in subparagraph (C) (as so redesignated in paragraph (1)), by striking '', or'' and inserting a comma;

(4) in subparagraph (D) (as so redesignated in paragraph (1)), by striking the period and inserting '', or'';

(5) by inserting after subparagraph (D) (as so redesignated in paragraph (1)) the following:

''(E) the applicant involved is a small business submitting its first human drug application to the Secretary for review.''; and

(6) by striking ''In making the finding in paragraph (3),'' and all that follows through ''standard costs.'' and inserting the following:

''(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(C), the Secretary may use standard costs.

''(3) RULES RELATING TO SMALL BUSINESSES.—

''(A) DEFINITION.—In paragraph (1)(E), the term 'small business' means an entity that has fewer than 500 employees, including employees of affiliates.

''(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first human drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay—

''(i) application fees for all subsequent human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business; and

''(ii) all supplement fees for all supplements to human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business.''.

(e) ASSESSMENT OF FEES.—Section 736(f)(1) (21 U.S.C. 379h(f)(1)) is amended—

(1) by striking ''fiscal year 1993'' and inserting ''fiscal year 1997''; and

(2) by striking ''fiscal year 1992'' and inserting ''fiscal year 1997 (excluding the amount of fees appropriated for such fiscal year)''.

(f) CREDITING AND AVAILABILITY OF FEES.—Section 736(g) (21 U.S.C. 379h(g)) is amended—

(1) in paragraph (1), by adding at the end the following: ''Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of human drug applications.'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''Acts'' and inserting ''Acts, or otherwise made available for obligation,''; and

(B) in subparagraph (B), by striking ''over such costs for fiscal year 1992'' and inserting ''over such costs, excluding costs paid from fees collected under this section, for fiscal year 1997''; and

(3) by striking paragraph (3) and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

''(A) $106,800,000 for fiscal year 1998;

''(B) $109,200,000 for fiscal year 1999;

''(C) $109,200,000 for fiscal year 2000;

''(D) $114,000,000 for fiscal year 2001; and

''(E) $110,100,000 for fiscal year 2002,

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by application, supplement, establishment, and product fees.

''(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.''.

(g) REQUIREMENT FOR WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—Section 736 (21 U.S.C. 379h) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

''(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.''.

(h) SPECIAL RULE FOR WAIVERS AND REFUNDS.—Any requests for waivers or refunds for fees assessed under section 736 of the Federal Food, Drug, and Cosmetic Act (42 U.S.C. 379h) prior to the date of enactment of this Act shall be submitted in writing to the Secretary of Health and Human Services within 1 year after the date of enactment of this Act. Any requests for waivers or refunds pertaining to a fee for a human drug application or supplement accepted for filing prior to October 1, 1997 or to a product or establishment fee required by such Act for a fiscal year prior to fiscal year 1998, shall be evaluated according to the terms of the Prescription Drug User Fee Act of 1992 (as in effect on September 30, 1997) and part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (as in effect on September 30, 1997). The term ''person'' in such Acts shall continue to include an affiliate thereof.

SEC. 104. ANNUAL REPORTS.

(a) PERFORMANCE REPORT.—Beginning with fiscal year 1998, not later than 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g et seq.), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(4) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(b) FISCAL REPORT.—Beginning with fiscal year 1998, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

SEC. 105. SAVINGS.

Notwithstanding section 105 of the Prescription Drug User Fee Act of 1992, the Secretary shall retain the authority to assess and collect any fee required by part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act for a human drug application or supplement accepted for filing prior to October 1, 1997, and to assess and collect any product or establishment fee required by such Act for a fiscal year prior to fiscal year 1998.

SEC. 106. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect October 1, 1997.

SEC. 107. TERMINATION OF EFFECTIVENESS.

The amendments made by sections 102 and 103 cease to be effective October 1, 2002, and section 104 ceases to be effective 120 days after such date.

Subtitle B—Other Improvements

SEC. 111. PEDIATRIC STUDIES OF DRUGS.

Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after section 505 the following:

"SEC. 505A. PEDIATRIC STUDIES OF DRUGS.

''(a) MARKET EXCLUSIVITY FOR NEW DRUGS.—If, prior to approval of an application that is submitted under section 505(b)(1), the Secretary determines that information relating to the use of a new drug in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which shall include a timeframe for completing such studies), and such studies are completed within any such timeframe and the reports thereof submitted in accordance with subsection (d)(2) or accepted in accordance with subsection (d)(3)—

''(1)(A)(i) the period referred to in subsection (c)(3)(D)(ii) of section 505, and in subsection (j)(4)(D)(ii) of such section, is deemed to be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of such section to four years, to forty-eight months, and to seven and one-half years are deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

''(ii) the period referred to in clauses (iii) and (iv) of subsection (c)(3)(D) of such section, and in clauses (iii) and (iv) of subsection (j)(4)(D) of such section, is deemed to be three years and six months rather than three years; and

''(B) if the drug is designated under section 526 for a rare disease or condition, the period referred to in section 527(a) is deemed to be seven years and six months rather than seven years; and

''(2)(A) if the drug is the subject of—

''(i) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

''(ii) a listed patent for which a certification has been submitted under subsections (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

''(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

''(b) SECRETARY TO DEVELOP LIST OF DRUGS FOR WHICH ADDITIONAL PEDIATRIC INFORMATION MAY BE BENEFICIAL.—Not later than 180 days after the date of enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary, after consultation with experts in pediatric research shall develop, prioritize, and publish an initial list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. The Secretary shall annually update the list.

''(c) MARKET EXCLUSIVITY FOR ALREADY-MARKETED DRUGS.—If the Secretary makes a written request to the holder of an approved application under section 505(b)(1) for pediatric studies (which shall include a timeframe for completing such studies) concerning a drug identified in the list described in subsection (b), the holder agrees to the request, the studies are completed within any such timeframe, and the reports thereof are submitted in accordance with subsection (d)(2) or accepted in accordance with subsection (d)(3)—

''(1)(A)(i) the period referred to in subsection (c)(3)(D)(ii) of section 505, and in subsection (j)(4)(D)(ii) of such section, is deemed to be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of such section to four years, to forty-eight months, and to seven and one-half years are deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

''(ii) the period referred to in clauses (iii) and (iv) of subsection (c)(3)(D) of such section, and in clauses (iii) and (iv) of subsection (j)(4)(D) of such section, is deemed to be three years and six months rather than three years; and

''(B) if the drug is designated under section 526 for a rare disease or condition, the period referred to in section 527(a) is deemed to be seven years and six months rather than seven years; and

''(2)(A) if the drug is the subject of—

''(i) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

''(ii) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

''(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

''(d) CONDUCT OF PEDIATRIC STUDIES.—

''(1) AGREEMENT FOR STUDIES.—The Secretary may, pursuant to a written request from the Secretary under subsection (a) or (c), after consultation with—

''(A) the sponsor of an application for an investigational new drug under section 505(i);

''(B) the sponsor of an application for a new drug under section 505(b)(1); or

''(C) the holder of an approved application for a drug under section 505(b)(1),

agree with the sponsor or holder for the conduct of pediatric studies for such drug. Such agreement shall be in writing and shall include a timeframe for such studies.

''(2) WRITTEN PROTOCOLS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary agree upon written protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied upon the completion of the studies and submission of the reports thereof in accordance with the original written request and the written agreement referred to in paragraph (1). Not later than 60 days after the submission of the report of the studies, the Secretary shall determine if such studies were or were not conducted in accordance with the original written request and the written agreement and reported in accordance with the requirements of the Secretary for filing and so notify the sponsor or holder.

''(3) OTHER METHODS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary have not agreed in writing on the protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied when such studies have been completed and the reports accepted by the Secretary. Not later than 90 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within the 90 days, whether the studies fairly respond to the written request, have been conducted in accordance with commonly accepted scientific principles and protocols, and have been reported in accordance with the requirements of the Secretary for filing.

''(e) DELAY OF EFFECTIVE DATE FOR CERTAIN APPLICATION.—If the Secretary determines that the acceptance or approval of an application under section 505(b)(2) or 505(j) for a new drug may occur after submission of reports of pediatric studies under this section, which were submitted prior to the expiration of the patent (including any patent extension) or the applicable period under clauses (ii) through (iv) of section 505(c)(3)(D) or clauses (ii) through (iv) of section 505(j)(4)(D), but before the Secretary has determined whether the requirements of subsection (d) have been satisfied, the Secretary shall delay the acceptance or approval under section 505(b)(2) or 505(j) until the determination under subsection (d) is made, but any such delay shall not exceed 90 days. In the event that requirements of this section are satisfied, the applicable six-month period under subsection (a) or (c) shall be deemed to have been running during the period of delay.

''(f) NOTICE OF DETERMINATIONS ON STUDIES REQUIREMENT.—The Secretary shall publish a notice of any determination that the requirements of subsection (d) have been met and that submissions and approvals under subsection (b)(2) or (j) of section 505 for a drug will be subject to the provisions of this section.

''(g) DEFINITIONS.—As used in this section, the term 'pediatric studies' or 'studies' means at least one clinical investigation (that, at the Secretary's discretion, may include pharmacokinetic studies) in pediatric age groups in which a drug is anticipated to be used.

''(h) LIMITATIONS.—A drug to which the six-month period under subsection (a) or (b) has already been applied—

''(1) may receive an additional six-month period under subsection (c)(1)(A)(ii) for a supplemental application if all other requirements under this section are satisfied, except that such a drug may not receive any additional such period under subsection (c)(2); and

''(2) may not receive any additional such period under subsection (c)(1)(B).

''(i) RELATIONSHIP TO REGULATIONS.—Notwithstanding any other provision of law, if any pediatric study is required pursuant to regulations promulgated by the Secretary and such study meets the completeness, timeliness, and other requirements of this section, such study shall be deemed to satisfy the requirement for market exclusivity pursuant to this section.

''(j) SUNSET.—A drug may not receive any six-month period under subsection (a) or (c) unless the application for the drug under section 505(b)(1) is submitted on or before January 1, 2002. After January 1, 2002, a drug shall receive a six-month period under subsection (c) if—

''(1) the drug was in commercial distribution as of the date of enactment of the Food and Drug Administration Modernization Act of 1997;

''(2) the drug was included by the Secretary on the list under subsection (b) as of January 1, 2002;

''(3) the Secretary determines that there is a continuing need for information relating to the use of the drug in the pediatric population and that the drug may provide health benefits in that population; and

''(4) all requirements of this section are met.

''(k) REPORT.—The Secretary shall conduct a study and report to Congress not later than January 1, 2001, based on the experience under the program established under this section. The study and report shall examine all relevant issues, including—

''(1) the effectiveness of the program in improving information about important pediatric uses for approved drugs;

''(2) the adequacy of the incentive provided under this section;

''(3) the economic impact of the program on taxpayers and consumers, including the impact of the lack of lower cost generic drugs on patients, including on lower income patients; and

''(4) any suggestions for modification that the Secretary determines to be appropriate.''.

SEC. 112. EXPEDITING STUDY AND APPROVAL OF FAST TRACK DRUGS.

(a) IN GENERAL.—Chapter V (21 U.S.C. 351 et seq.), as amended by section 125, is amended by inserting before section 508 the following:

''SEC. 506. FAST TRACK PRODUCTS.

''(a) DESIGNATION OF DRUG AS A FAST TRACK PRODUCT.—

''(1) IN GENERAL.—The Secretary shall, at the request of the sponsor of a new drug, facilitate the development and expedite the review of such drug if it is intended for the treatment of a serious or life-threatening condition and it demonstrates the potential to address unmet medical needs for such a condition. (In this section, such a drug is referred to as a 'fast track product'.)

''(2) REQUEST FOR DESIGNATION.—The sponsor of a new drug may request the Secretary to designate the drug as a fast track product. A request for the designation may be made concurrently with, or at any time after, submission of an application for the investigation of the drug under section 505(i) or section 351(a)(3) of the Public Health Service Act.

''(3) DESIGNATION.—Within 60 calendar days after the receipt of a request under paragraph (2), the Secretary shall determine whether the drug that is the subject of the request meets the criteria described in paragraph (1). If the Secretary finds that the drug meets the criteria, the Secretary shall designate the drug as a fast track product and shall take such actions as are appropriate to expedite the development and review of the application for approval of such product.

''(b) APPROVAL OF APPLICATION FOR A FAST TRACK PRODUCT.—

''(1) IN GENERAL.—The Secretary may approve an application for approval of a fast track product under section 505(c) or section 351 of the Public Health Service Act upon a determination that the product has an effect on a clinical endpoint or on a surrogate endpoint that is reasonably likely to predict clinical benefit.

''(2) LIMITATION.—Approval of a fast track product under this subsection may be subject to the requirements—

''(A) that the sponsor conduct appropriate post-approval studies to validate the surrogate endpoint or otherwise confirm the effect on the clinical endpoint; and

''(B) that the sponsor submit copies of all promotional materials related to the fast track product during the preapproval review period and, following approval and for such period

thereafter as the Secretary determines to be appropriate, at least 30 days prior to dissemination of the materials.

''(3) EXPEDITED WITHDRAWAL OF APPROVAL.—The Secretary may withdraw approval of a fast track product using expedited procedures (as prescribed by the Secretary in regulations which shall include an opportunity for an informal hearing) if—

''(A) the sponsor fails to conduct any required post-approval study of the fast track drug with due diligence;

''(B) a post-approval study of the fast track product fails to verify clinical benefit of the product;

''(C) other evidence demonstrates that the fast track product is not safe or effective under the conditions of use; or

''(D) the sponsor disseminates false or misleading promotional materials with respect to the product.

''(c) REVIEW OF INCOMPLETE APPLICATIONS FOR APPROVAL OF A FAST TRACK PRODUCT.—

''(1) IN GENERAL.—If the Secretary determines, after preliminary evaluation of clinical data submitted by the sponsor, that a fast track product may be effective, the Secretary shall evaluate for filing, and may commence review of portions of, an application for the approval of the product before the sponsor submits a complete application. The Secretary shall commence such review only if the applicant—

''(A) provides a schedule for submission of information necessary to make the application complete; and

''(B) pays any fee that may be required under section 736.

''(2) EXCEPTION.—Any time period for review of human drug applications that has been agreed to by the Secretary and that has been set forth in goals identified in letters of the Secretary (relating to the use of fees collected under section 736 to expedite the drug development process and the review of human drug applications) shall not apply to an application submitted under paragraph (1) until the date on which the application is complete.

''(d) AWARENESS EFFORTS.—The Secretary shall—

''(1) develop and disseminate to physicians, patient organizations, pharmaceutical and biotechnology companies, and other appropriate persons a description of the provisions of this section applicable to fast track products; and

''(2) establish a program to encourage the development of surrogate endpoints that are reasonably likely to predict clinical benefit for serious or life-threatening conditions for which there exist significant unmet medical needs.''.

(b) GUIDANCE.—Within 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance for fast track products (as defined in section 506(a)(1) of the Federal Food, Drug, and Cosmetic Act) that describes the policies and procedures that pertain to section 506 of such Act.

SEC. 113. INFORMATION PROGRAM ON CLINICAL TRIALS FOR SERIOUS OR LIFE-THREATENING DISEASES.

(a) IN GENERAL.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following:

''(j)(1)(A) The Secretary, acting through the Director of NIH, shall establish, maintain, and operate a data bank of information on clinical trials for drugs for serious or life-threatening diseases and conditions (in this subsection referred to as the 'data bank'). The activities of the data bank shall be integrated and coordinated with related activities of other agencies of the Department of Health and Human Services, and to the extent practicable, coordinated with other data banks containing similar information.

''(B) The Secretary shall establish the data bank after consultation with the Commissioner of Food and Drugs, the directors of the appropriate agencies of the National Institutes of Health (including the National Library of Medicine), and the Director of the Centers for Disease Control and Prevention.

''(2) In carrying out paragraph (1), the Secretary shall collect, catalog, store, and disseminate the information described in such paragraph. The Secretary shall disseminate such information through information systems, which shall include toll-free telephone communications, available to individuals with serious or life-threatening diseases and conditions, to other members of the public, to health care providers, and to researchers.

''(3) The data bank shall include the following:

''(A) A registry of clinical trials (whether federally or privately funded) of experimental treatments for serious or life-threatening diseases and conditions under regulations promulgated pursuant to section 505(i) of the Federal Food, Drug, and Cosmetic Act, which provides a description of the purpose of each experimental drug, either with the consent of the protocol sponsor, or when a trial to test effectiveness begins. Information provided shall consist of eligibility criteria for participation in the clinical trials, a description of the location of trial sites, and a point of contact for those wanting to enroll in the trial, and shall be in a form that can be readily understood by members of the public. Such information shall be forwarded to the data bank by the sponsor of the trial not later than 21 days after the approval of the protocol.

''(B) Information pertaining to experimental treatments for serious or life-threatening diseases and conditions that may be available—

''(i) under a treatment investigational new drug application that has been submitted to the Secretary under section 561(c) of the Federal Food, Drug, and Cosmetic Act; or

''(ii) as a Group C cancer drug (as defined by the National Cancer Institute).

The data bank may also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatments.

''(4) The data bank shall not include information relating to an investigation if the sponsor has provided a detailed certification to the Secretary that disclosure of such information would substantially interfere with the timely enrollment of subjects in the investigation, unless the Secretary, after the receipt of the certification, provides the sponsor with a detailed written determination that such disclosure would not substantially interfere with such enrollment.

''(5) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary. Fees collected under section 736 of the Federal Food, Drug, and Cosmetic Act shall not be used in carrying out this subsection.''.

(b) COLLABORATION AND REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs shall collaborate to determine the feasibility of including device investigations within the scope of the data bank under section 402(j) of the Public Health Service Act.

(2) REPORT.—Not later than two years after the date of enactment of this section, the Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report—

(A) of the public health need, if any, for inclusion of device investigations within the scope of the data bank under section 402(j) of the Public Health Service Act;

(B) on the adverse impact, if any, on device innovation and research in the United States if information relating to such device investigations is required to be publicly disclosed; and

(C) on such other issues relating to such section 402(j) as the Secretary determines to be appropriate.

SEC. 114. HEALTH CARE ECONOMIC INFORMATION.

(a) IN GENERAL.—Section 502(a) (21 U.S.C. 352(a)) is amended by adding at the end the following: ''Health care economic information provided to a formulary committee, or other similar entity, in the course of the committee or the entity carrying out its responsibilities for the selection of drugs for managed care or other similar organizations, shall not be considered to be false or misleading under this paragraph if the health care economic information directly relates to an indication approved under section 505 or under section 351(a) of the Public Health Service Act for such drug and is based on competent and reliable scientific evidence. The requirements set forth in section 505(a) or in section 351(a) of the Public Health Service Act shall not apply to health care economic information provided to such a committee or entity in accordance with this paragraph. Information that is relevant to the substantiation of the health care economic information presented pursuant to this paragraph shall be made available to the Secretary upon request. In this paragraph, the term 'health care economic information' means any analysis that identifies, measures, or compares the economic consequences, including the costs of the represented health outcomes, of the use of a drug to the use of another drug, to another health care intervention, or to no intervention.''.

(b) STUDY AND REPORT.—The Comptroller General of the United States shall conduct a study of the implementation of the provisions added by the amendment made by subsection (a). Not later than 4 years and 6 months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to Congress a report containing the findings of the study.

SEC. 115. CLINICAL INVESTIGATIONS.

(a) CLARIFICATION OF THE NUMBER OF REQUIRED CLINICAL INVESTIGATIONS FOR APPROVAL.—Section 505(d) (21 U.S.C. 355(d)) is amended by adding at the end the following: ''If the Secretary determines, based on relevant science, that data from one adequate and well-controlled clinical investigation and confirmatory evidence (obtained prior to or after such investigation) are sufficient to establish effectiveness, the Secretary may consider such data and evidence to constitute substantial evidence for purposes of the preceding sentence.''.

(b) WOMEN AND MINORITIES.—Section 505(b)(1) (21 U.S.C. 355(b)(1)) is amended by adding at the end the following: ''The Secretary shall, in consultation with the Director of the National Institutes of Health and with representatives of the drug manufacturing industry, review and develop guidance, as appropriate, on the inclusion of women and minorities in clinical trials required by clause (A).''.

SEC. 116. MANUFACTURING CHANGES FOR DRUGS.

(a) IN GENERAL.—Chapter V, as amended by section 112, is amended by inserting after section 506 the following section:

''SEC. 506A. MANUFACTURING CHANGES.

''(a) IN GENERAL.—With respect to a drug for which there is in effect an approved application under section 505 or 512 or a license under section 351 of the Public Health Service Act, a change from the manufacturing process approved pursuant to such application or license may be made, and the drug as made with the change may be distributed, if—

''(1) the holder of the approved application or license (referred to in this section as a 'holder') has validated the effects of the change in accordance with subsection (b); and

''(2)(A) in the case of a major manufacturing change, the holder has complied with the requirements of subsection (c); or

''(B) in the case of a change that is not a major manufacturing change, the holder complies with the applicable requirements of subsection (d).

''(b) VALIDATION OF EFFECTS OF CHANGES.—For purposes of subsection (a)(1), a drug made with a manufacturing change (whether a major manufacturing change or otherwise) may be distributed only if, before distribution of the drug as so made, the holder involved validates the effects of the change on the identity, strength, quality, purity, and potency of the drug as the identity, strength, quality, purity, and potency may relate to the safety or effectiveness of the drug.

''(c) MAJOR MANUFACTURING CHANGES.—

''(1) REQUIREMENT OF SUPPLEMENTAL APPLICATION.—For purposes of subsection (a)(2)(A), a drug made with a major manufacturing change may be distributed only if, before the distribution of the drug as so made, the holder involved submits to the Secretary a supplemental application for such change and the Secretary approves the application. The application shall contain such information as the Secretary determines to be appropriate, and shall include the information developed under subsection (b) by the holder in validating the effects of the change.

''(2) CHANGES QUALIFYING AS MAJOR CHANGES.—For purposes of subsection (a)(2)(A), a major manufacturing change is a manufacturing change that is determined by the Secretary to have substantial potential to adversely affect the identity, strength, quality, purity, or potency of the drug as they may relate to the safety or effectiveness of a drug. Such a change includes a change that—

''(A) is made in the qualitative or quantitative formulation of the drug involved or in the specifications in the approved application or license referred to in subsection (a) for the drug (unless exempted by the Secretary by regulation or guidance from the requirements of this subsection);

''(B) is determined by the Secretary by regulation or guidance to require completion of an appropriate clinical study demonstrating equivalence of the drug to the drug as manufactured without the change; or

''(C) is another type of change determined by the Secretary by regulation or guidance to have a substantial potential to adversely affect the safety or effectiveness of the drug.

''(d) OTHER MANUFACTURING CHANGES.—

''(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the Secretary may regulate drugs made with manufacturing changes that are not major manufacturing changes as follows:

''(A) The Secretary may in accordance with paragraph (2) authorize holders to distribute such drugs without submitting a supplemental application for such changes.

''(B) The Secretary may in accordance with paragraph (3) require that, prior to the distribution of such drugs, holders submit to the Secretary supplemental applications for such changes.

''(C) The Secretary may establish categories of such changes and designate categories to which subparagraph (A) applies and categories to which subparagraph (B) applies.

''(2) CHANGES NOT REQUIRING SUPPLEMENTAL APPLICATION.—

''(A) SUBMISSION OF REPORT.—A holder making a manufacturing change to which paragraph (1)(A) applies shall submit to the Secretary a report on the change, which shall contain such information as the Secretary determines to be appropriate, and which shall include the information developed under subsection (b) by the holder in validating the effects of the change. The report shall be submitted by such date as the Secretary may specify.

''(B) AUTHORITY REGARDING ANNUAL REPORTS.—In the case of a holder that during a single year makes more than one manufacturing change to which paragraph (1)(A) applies, the Secretary may in carrying out subparagraph (A) authorize the holder to comply with such subparagraph by submitting a single report for the year that provides the information required in such subparagraph for all the changes made by the holder during the year.

''(3) CHANGES REQUIRING SUPPLEMENTAL APPLICATION.—

''(A) SUBMISSION OF SUPPLEMENTAL APPLICATION.—The supplemental application required under paragraph (1)(B) for a manufacturing change shall contain such information as the Secretary determines to be appropriate, which shall include the information developed under subsection (b) by the holder in validating the effects of the change.

''(B) AUTHORITY FOR DISTRIBUTION.—In the case of a manufacturing change to which paragraph (1)(B) applies:

''(i) The holder involved may commence distribution of the drug involved 30 days after the Secretary receives the supplemental application under such paragraph, unless the Secretary notifies the holder within such 30-day period that prior approval of the application is required before distribution may be commenced.

''(ii) The Secretary may designate a category of such changes for the purpose of providing that, in the case of a change that is in such category, the holder involved may commence distribution of the drug involved upon the receipt by the Secretary of a supplemental application for the change.

''(iii) If the Secretary disapproves the supplemental application, the Secretary may order the manufacturer to cease the distribution of the drugs that have been made with the manufacturing change.''.

(b) TRANSITION RULE.—The amendment made by subsection (a) takes effect upon the effective date of regulations promulgated by the Secretary of Health and Human Services to implement such amendment, or upon the expiration of the 24-month period beginning on the date of the enactment of this Act, whichever occurs first.

SEC. 117. STREAMLINING CLINICAL RESEARCH ON DRUGS.

Section 505(i) (21 U.S.C. 355(i)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(2) by inserting ''(1)'' after ''(i)'';

(3) by striking the last two sentences; and

(4) by inserting after paragraph (1) (as designated by paragraph (2) of this section) the following new paragraphs:

''(2) Subject to paragraph (3), a clinical investigation of a new drug may begin 30 days after the Secretary has received from the manufacturer or sponsor of the investigation a submission containing such information about the drug and the clinical investigation, including—

''(A) information on design of the investigation and adequate reports of basic information, certified by the applicant to be accurate reports, necessary to assess the safety of the drug for use in clinical investigation; and

''(B) adequate information on the chemistry and manufacturing of the drug, controls available for the drug, and primary data tabulations from animal or human studies.

''(3)(A) At any time, the Secretary may prohibit the sponsor of an investigation from conducting the investigation (referred to in this paragraph as a 'clinical hold') if the Secretary makes a determination described in subparagraph (B). The Secretary shall specify the basis for the clinical hold, including the specific information available to the Secretary which served as the basis for such clinical hold, and confirm such determination in writing.

''(B) For purposes of subparagraph (A), a determination described in this subparagraph with respect to a clinical hold is that—

''(i) the drug involved represents an unreasonable risk to the safety of the persons who are the subjects of the clinical investigation, taking into account the qualifications of the clinical investigators, information about the drug, the design of the clinical investigation, the condition for which the drug is to be investigated, and the health status of the subjects involved; or

''(ii) the clinical hold should be issued for such other reasons as the Secretary may by regulation establish (including reasons established by regulation before the date of the enactment of the Food and Drug Administration Modernization Act of 1997).

''(C) Any written request to the Secretary from the sponsor of an investigation that a clinical hold be removed shall receive a decision, in writing and specifying the reasons therefor, within 30 days after receipt of such request. Any such request shall include sufficient information to support the removal of such clinical hold.

''(4) Regulations under paragraph (1) shall provide that such exemption shall be conditioned upon the manufacturer, or the sponsor of the investigation, requiring that experts using such drugs for investigational purposes certify to such manufacturer or sponsor that they will inform any human beings to whom such drugs, or any controls used in connection therewith, are being administered, or their representatives, that such drugs are being used for investigational purposes and will obtain the consent of such human beings or their representatives, except where it is not feasible or it is contrary to the best interests of such human beings. Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of drugs.''.

SEC. 118. DATA REQUIREMENTS FOR DRUGS AND BIOLOGICS.

Within 12 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall issue guidance that describes when abbreviated study reports may be submitted, in lieu of full reports, with a new drug application under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) and with a biologics license application under section 351 of the Public Health Service Act (42 U.S.C. 262) for certain types of studies. Such guidance shall describe the kinds of studies for which abbreviated reports are appropriate and the appropriate abbreviated report formats.

SEC. 119. CONTENT AND REVIEW OF APPLICATIONS.

(a) SECTION 505(b).—Section 505(b) (21 U.S.C. 355(b)) is amended by adding at the end the following:

''(4)(A) The Secretary shall issue guidance for the individuals who review applications submitted under paragraph (1) or under section 351 of the Public Health Service Act, which shall relate to promptness in conducting the review, technical excellence, lack of bias and conflict of interest, and knowledge of regulatory and scientific standards, and which shall apply equally to all individuals who review such applications.

''(B) The Secretary shall meet with a sponsor of an investigation or an applicant for approval for a drug under this subsection or section 351 of the Public Health Service Act if the sponsor or applicant makes a reasonable written request for a meeting for the purpose of reaching agreement on the design and size of clinical trials intended to form the primary basis of an effectiveness claim. The sponsor or applicant shall provide information necessary for discussion and agreement on the design and size of the clinical trials. Minutes of any such meeting shall be prepared by the Secretary and made available to the sponsor or applicant upon request.

''(C) Any agreement regarding the parameters of the design and size of clinical trials of a new drug under this paragraph that is reached between the Secretary and a sponsor or applicant

shall be reduced to writing and made part of the administrative record by the Secretary. Such agreement shall not be changed after the testing begins, except—

''(i) with the written agreement of the sponsor or applicant; or

''(ii) pursuant to a decision, made in accordance with subparagraph (D) by the director of the reviewing division, that a substantial scientific issue essential to determining the safety or effectiveness of the drug has been identified after the testing has begun.

''(D) A decision under subparagraph (C)(ii) by the director shall be in writing and the Secretary shall provide to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant will be present and at which the director will document the scientific issue involved.

''(E) The written decisions of the reviewing division shall be binding upon, and may not directly or indirectly be changed by, the field or compliance division personnel unless such field or compliance division personnel demonstrate to the reviewing division why such decision should be modified.

''(F) No action by the reviewing division may be delayed because of the unavailability of information from or action by field personnel unless the reviewing division determines that a delay is necessary to assure the marketing of a safe and effective drug.

''(G) For purposes of this paragraph, the reviewing division is the division responsible for the review of an application for approval of a drug under this subsection or section 351 of the Public Health Service Act (including all scientific and medical matters, chemistry, manufacturing, and controls).''.

(b) SECTION 505(j).—

(1) AMENDMENT.—Section 505(j) (21 U.S.C 355(j)) is amended—

(A) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

(B) by adding after paragraph (2) the following:

''(3)(A) The Secretary shall issue guidance for the individuals who review applications submitted under paragraph (1), which shall relate to promptness in conducting the review, technical excellence, lack of bias and conflict of interest, and knowledge of regulatory and scientific standards, and which shall apply equally to all individuals who review such applications.

''(B) The Secretary shall meet with a sponsor of an investigation or an applicant for approval for a drug under this subsection if the sponsor or applicant makes a reasonable written request for a meeting for the purpose of reaching agreement on the design and size of bioavailability and bioequivalence studies needed for approval of such application. The sponsor or applicant shall provide information necessary for discussion and agreement on the design and size of such studies. Minutes of any such meeting shall be prepared by the Secretary and made available to the sponsor or applicant.

''(C) Any agreement regarding the parameters of design and size of bioavailability and bioequivalence studies of a drug under this paragraph that is reached between the Secretary and a sponsor or applicant shall be reduced to writing and made part of the administrative record by the Secretary. Such agreement shall not be changed after the testing begins, except—

''(i) with the written agreement of the sponsor or applicant; or

''(ii) pursuant to a decision, made in accordance with subparagraph (D) by the director of the reviewing division, that a substantial scientific issue essential to determining the safety or effectiveness of the drug has been identified after the testing has begun.

''(D) A decision under subparagraph (C)(ii) by the director shall be in writing and the Secretary shall provide to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant will be present and at which the director will document the scientific issue involved.

''(E) The written decisions of the reviewing division shall be binding upon, and may not directly or indirectly be changed by, the field or compliance office personnel unless such field or compliance office personnel demonstrate to the reviewing division why such decision should be modified.

''(F) No action by the reviewing division may be delayed because of the unavailability of information from or action by field personnel unless the reviewing division determines that a delay is necessary to assure the marketing of a safe and effective drug.

''(G) For purposes of this paragraph, the reviewing division is the division responsible for the review of an application for approval of a drug under this subsection (including scientific matters, chemistry, manufacturing, and controls).''.

(2) CONFORMING AMENDMENTS.—Section 505(j) (21 U.S.C. 355(j)), as amended by paragraph (1), is further amended—

(A) in paragraph (2)(A)(i), by striking ''(6)'' and inserting ''(7)'';

(B) in paragraph (4) (as redesignated in paragraph (1)), by striking ''(4)'' and inserting ''(5)'';

(C) in paragraph (4)(I) (as redesignated in paragraph (1)), by striking ''(5)'' and inserting ''(6)''; and

(D) in paragraph (7)(C) (as redesignated in paragraph (1)), by striking ''(5)'' each place it occurs and inserting ''(6)''.

SEC. 120. SCIENTIFIC ADVISORY PANELS.

Section 505 (21 U.S.C. 355) is amended by adding at the end the following:

''(n)(1) For the purpose of providing expert scientific advice and recommendations to the Secretary regarding a clinical investigation of a drug or the approval for marketing of a drug under section 505 or section 351 of the Public Health Service Act, the Secretary shall establish panels of experts or use panels of experts established before the date of enactment of the Food and Drug Administration Modernization Act of 1997, or both.

''(2) The Secretary may delegate the appointment and oversight authority granted under section 904 to a director of a center or successor entity within the Food and Drug Administration.

''(3) The Secretary shall make appointments to each panel established under paragraph (1) so that each panel shall consist of—

''(A) members who are qualified by training and experience to evaluate the safety and effectiveness of the drugs to be referred to the panel and who, to the extent feasible, possess skill and experience in the development, manufacture, or utilization of such drugs;

''(B) members with diverse expertise in such fields as clinical and administrative medicine, pharmacy, pharmacology, pharmacoeconomics, biological and physical sciences, and other related professions;

''(C) a representative of consumer interests, and a representative of interests of the drug manufacturing industry not directly affected by the matter to be brought before the panel; and

''(D) two or more members who are specialists or have other expertise in the particular disease or condition for which the drug under review is proposed to be indicated.

Scientific, trade, and consumer organizations shall be afforded an opportunity to nominate individuals for appointment to the panels. No individual who is in the regular full-time employ of the United States and engaged in the administration of this Act may be a voting member of any panel. The Secretary shall designate one of the members of each panel to serve as chairman thereof.

''(4) Each member of a panel shall publicly disclose all conflicts of interest that member may have with the work to be undertaken by the panel. No member of a panel may vote on any matter where the member or the immediate family of such member could gain financially from the advice given to the Secretary. The Secretary may grant a waiver of any conflict of interest requirement upon public disclosure of such conflict of interest if such waiver is necessary to afford the panel essential expertise, except that the Secretary may not grant a waiver for a member of a panel when the member's own scientific work is involved.

''(5) The Secretary shall, as appropriate, provide education and training to each new panel member before such member participates in a panel's activities, including education regarding requirements under this Act and related regulations of the Secretary, and the administrative processes and procedures related to panel meetings.

''(6) Panel members (other than officers or employees of the United States), while attending meetings or conferences of a panel or otherwise engaged in its business, shall be entitled to receive compensation for each day so engaged, including traveltime, at rates to be fixed by the Secretary, but not to exceed the daily equivalent of the rate in effect for positions classified above grade GS–15 of the General Schedule. While serving away from their homes or regular places of business, panel members may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

''(7) The Secretary shall ensure that scientific advisory panels meet regularly and at appropriate intervals so that any matter to be reviewed by such a panel can be presented to the panel not more than 60 days after the matter is ready for such review. Meetings of the panel may be held using electronic communication to convene the meetings.

''(8) Within 90 days after a scientific advisory panel makes recommendations on any matter under its review, the Food and Drug Administration official responsible for the matter shall review the conclusions and recommendations of the panel, and notify the affected persons of the final decision on the matter, or of the reasons that no such decision has been reached. Each such final decision shall be documented including the rationale for the decision.''.

SEC. 121. POSITRON EMISSION TOMOGRAPHY.

(a) REGULATION OF COMPOUNDED POSITRON EMISSION TOMOGRAPHY DRUGS.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

''(ii) The term 'compounded positron emission tomography drug'—

''(1) means a drug that—

''(A) exhibits spontaneous disintegration of unstable nuclei by the emission of positrons and is used for the purpose of providing dual photon positron emission tomographic diagnostic images; and

''(B) has been compounded by or on the order of a practitioner who is licensed by a State to compound or order compounding for a drug described in subparagraph (A), and is compounded in accordance with that State's law, for a patient or for research, teaching, or quality control; and

''(2) includes any nonradioactive reagent, reagent kit, ingredient, nuclide generator, accelerator, target material, electronic synthesizer, or other apparatus or computer program to be used in the preparation of such a drug.''.

(b) ADULTERATION.—

(1) IN GENERAL.—Section 501(a) (21 U.S.C. 351(a)) is amended by striking ''; or (3)'' and inserting the following: ''; or (C) if it is a compounded positron emission tomography drug and the methods used in, or the facilities and controls used for, its compounding, processing, packing, or holding do not conform to or are not operated or administered in conformity with the positron emission tomography compounding

standards and the official monographs of the United States Pharmacopoeia to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess; or (3)''.

(2) SUNSET.—Section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) shall not apply 4 years after the date of enactment of this Act or 2 years after the date on which the Secretary of Health and Human Services establishes the requirements described in subsection (c)(1)(B), whichever is later.

(c) REQUIREMENTS FOR REVIEW OF APPROVAL PROCEDURES AND CURRENT GOOD MANUFACTURING PRACTICES FOR POSITRON EMISSION TOMOGRAPHY.—

(1) PROCEDURES AND REQUIREMENTS.—

(A) IN GENERAL.—In order to take account of the special characteristics of positron emission tomography drugs and the special techniques and processes required to produce these drugs, not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall establish—

(i) appropriate procedures for the approval of positron emission tomography drugs pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

(ii) appropriate current good manufacturing practice requirements for such drugs.

(B) CONSIDERATIONS AND CONSULTATION.—In establishing the procedures and requirements required by subparagraph (A), the Secretary of Health and Human Services shall take due account of any relevant differences between not-for-profit institutions that compound the drugs for their patients and commercial manufacturers of the drugs. Prior to establishing the procedures and requirements, the Secretary of Health and Human Services shall consult with patient advocacy groups, professional associations, manufacturers, and physicians and scientists licensed to make or use positron emission tomography drugs.

(2) SUBMISSION OF NEW DRUG APPLICATIONS AND ABBREVIATED NEW DRUG APPLICATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Health and Human Services shall not require the submission of new drug applications or abbreviated new drug applications under subsection (b) or (j) of section 505 (21 U.S.C. 355), for compounded positron emission tomography drugs that are not adulterated drugs described in section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) (as amended by subsection (b)), for a period of 4 years after the date of enactment of this Act, or for 2 years after the date on which the Secretary establishes procedures and requirements under paragraph (1), whichever is longer.

(B) EXCEPTION.—Nothing in this Act shall prohibit the voluntary submission of such applications or the review of such applications by the Secretary of Health and Human Services. Nothing in this Act shall constitute an exemption for a positron emission tomography drug from the requirements of regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)).

(d) REVOCATION OF CERTAIN INCONSISTENT DOCUMENTS.—Within 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a notice terminating the application of the following notices and rule:

(1) A notice entitled ''Regulation of Positron Emission Tomography Radiopharmaceutical Drug Products; Guidance; Public Workshop'', published in the Federal Register on February 27, 1995, 60 Fed. Reg. 10594.

(2) A notice entitled ''Draft Guideline on the Manufacture of Positron Emission Tomography Radiopharmaceutical Drug Products; Availability'', published in the Federal Register on February 27, 1995, 60 Fed. Reg. 10593.

(3) A final rule entitled ''Current Good Manufacturing Practice for Finished Pharmaceuticals; Positron Emission Tomography'', published in the Federal Register on April 22, 1997, 62 Fed. Reg. 19493 (codified at part 211 of title 21, Code of Federal Regulations).

(e) DEFINITION.—As used in this section, the term ''compounded positron emission tomography drug'' has the meaning given the term in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

SEC. 122. REQUIREMENTS FOR RADIOPHARMACEUTICALS.

(a) REQUIREMENTS.—

(1) REGULATIONS.—

(A) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with patient advocacy groups, associations, physicians licensed to use radiopharmaceuticals, and the regulated industry, shall issue proposed regulations governing the approval of radiopharmaceuticals. The regulations shall provide that the determination of the safety and effectiveness of such a radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) shall include consideration of the proposed use of the radiopharmaceutical in the practice of medicine, the pharmacological and toxicological activity of the radiopharmaceutical (including any carrier or ligand component of the radiopharmaceutical), and the estimated absorbed radiation dose of the radiopharmaceutical.

(B) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate final regulations governing the approval of the radiopharmaceuticals.

(2) SPECIAL RULE.—In the case of a radiopharmaceutical, the indications for which such radiopharmaceutical is approved for marketing may, in appropriate cases, refer to manifestations of disease (such as biochemical, physiological, anatomic, or pathological processes) common to, or present in, one or more disease states.

(b) DEFINITION.—In this section, the term ''radiopharmaceutical'' means—

(1) an article—

(A) that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans; and

(B) that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such article.

SEC. 123. MODERNIZATION OF REGULATION.

(a) LICENSES.—

(1) IN GENERAL.—Section 351(a) of the Public Health Service (42 U.S.C. 262(a)) is amended to read as follows:

''(a)(1) No person shall introduce or deliver for introduction into interstate commerce any biological product unless—

''(A) a biologics license is in effect for the biological product; and

''(B) each package of the biological product is plainly marked with—

''(i) the proper name of the biological product contained in the package;

''(ii) the name, address, and applicable license number of the manufacturer of the biological product; and

''(iii) the expiration date of the biological product.

''(2)(A) The Secretary shall establish, by regulation, requirements for the approval, suspension, and revocation of biologics licenses.

''(B) The Secretary shall approve a biologics license application—

''(i) on the basis of a demonstration that—

''(I) the biological product that is the subject of the application is safe, pure, and potent; and

''(II) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent; and

''(ii) if the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c).

''(3) The Secretary shall prescribe requirements under which a biological product undergoing investigation shall be exempt from the requirements of paragraph (1).''.

(2) ELIMINATION OF EXISTING LICENSE REQUIREMENT.—Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) is amended—

(A) by striking ''(d)(1)'' and all that follows through ''of this section.'';

(B) in paragraph (2)—

(i) by striking ''(2)(A) Upon'' and inserting ''(d)(1) Upon'' and

(ii) by redesignating subparagraph (B) as paragraph (2); and

(C) in paragraph (2) (as so redesignated by subparagraph (B)(ii))—

(i) by striking ''subparagraph (A)'' and inserting ''paragraph (1)''; and

(ii) by striking ''this subparagraph'' each place it appears and inserting ''this paragraph''.

(b) LABELING.—Section 351(b) of the Public Health Service Act (42 U.S.C. 262(b)) is amended to read as follows:

''(b) No person shall falsely label or mark any package or container of any biological product or alter any label or mark on the package or container of the biological product so as to falsify the label or mark.''.

(c) INSPECTION.—Section 351(c) of the Public Health Service Act (42 U.S.C. 262(c)) is amended by striking ''virus, serum,'' and all that follows and inserting ''biological product.''.

(d) DEFINITION; APPLICATION.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended by adding at the end the following:

''(i) In this section, the term 'biological product' means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings.''.

(e) CONFORMING AMENDMENT.—Section 503(g)(4) (21 U.S.C. 353(g)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking ''section 351(a)'' and inserting ''section 351(i)''; and

(B) by striking ''262(a)'' and inserting ''262(i)''; and

(2) in subparagraph (B)(iii), by striking ''product or establishment license under subsection (a) or (d)'' and inserting ''biologics license application under subsection (a)''.

(f) SPECIAL RULE.—The Secretary of Health and Human Services shall take measures to minimize differences in the review and approval of products required to have approved biologics license applications under section 351 of the Public Health Service Act (42 U.S.C. 262) and products required to have approved new drug applications under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)).

(g) APPLICATION OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 351 of the Public Health Service Act (42 U.S.C. 262), as amended by subsection (d), is further amended by adding at the end the following:

''(j) The Federal Food, Drug, and Cosmetic Act applies to a biological product subject to regulation under this section, except that a product for which a license has been approved under subsection (a) shall not be required to have an approved application under section 505 of such Act.''.

(h) EXAMINATIONS AND PROCEDURES.—Paragraph (3) of section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended to read as follows:

''(3) EXAMINATIONS AND PROCEDURES.—The examinations and procedures identified in paragraph (2) are laboratory examinations and procedures that have been approved by the Food and Drug Administration for home use or that, as determined by the Secretary, are simple laboratory examinations and procedures that have an insignificant risk of an erroneous result, including those that—

''(A) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results by the user negligible, or

''(B) the Secretary has determined pose no unreasonable risk of harm to the patient if performed incorrectly.''.

SEC. 124. PILOT AND SMALL SCALE MANUFACTURE.

(a) HUMAN DRUGS.—Section 505(c) (21 U.S.C. 355(c)) is amended by adding at the end the following:

''(4) A drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the drug and to obtain approval for the drug prior to manufacture of the drug in a larger facility, unless the Secretary makes a determination that a full scale production facility is necessary to ensure the safety or effectiveness of the drug.''.

(b) ANIMAL DRUGS.—Section 512(c) (21 U.S.C. 360b(c)) is amended by adding at the end the following:

''(4) A drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the drug and to obtain approval for the drug prior to manufacture of the drug in a larger facility, unless the Secretary makes a determination that a full scale production facility is necessary to ensure the safety or effectiveness of the drug.''.

SEC. 125. INSULIN AND ANTIBIOTICS.

(a) CERTIFICATION OF DRUGS CONTAINING INSULIN.—

(1) AMENDMENT.—Section 506 (21 U.S.C. 356), as in effect before the date of the enactment of this Act, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 301(j) (21 U.S.C. 331(j)) is amended by striking ''506, 507,''.

(B) Subsection (k) of section 502 (21 U.S.C. 352) is repealed.

(C) Sections 301(i)(1), 510(j)(1)(A), and 510(j)(1)(D) (21 U.S.C. 331(i)(1), 360(j)(1)(A), 360(j)(1)(D)) are each amended by striking '', 506, 507,''.

(D) Section 801(d)(1) (21 U.S.C. 381(d)(1)) is amended by inserting after ''503(b)'' the following: ''or composed wholly or partly of insulin''.

(E) Section 8126(h)(2) of title 38, United States Code, is amended by inserting ''or'' at the end of subparagraph (B), by striking ''; or'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(b) CERTIFICATION OF ANTIBIOTICS.—

(1) AMENDMENT.—Section 507 (21 U.S.C. 357) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 201(aa) (21 U.S.C. 321(aa)) is amended by striking out ''or 507'', section 201(dd) (21 U.S.C. 321(dd)) is amended by striking ''507,'', and section 201(ff)(3)(A) (21 U.S.C. 321(ff)(3)(A)) is amended by striking '', certified as an antibiotic under section 507,''.

(B) Section 301(e) (21 U.S.C. 331(e)) is amended by striking ''507(d) or (g),''.

(C) Section 306(d)(4)(B)(ii) (21 U.S.C. 335a(d)(4)(B)(ii)) is amended by striking ''or 507''.

(D) Section 502 (21 U.S.C. 352) is amended by striking subsection (l).

(E) Section 520(l) (21 U.S.C. 360j(l)) is amended by striking paragraph (4) and by striking ''or Antibiotic Drugs'' in the subsection heading.

(F) Section 525(a) (21 U.S.C. 360aa(a)) is amended by inserting ''or'' at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(G) Section 525(a) (21 U.S.C. 360aa(a)) is amended by striking '', certification of such drug for such disease or condition under section 507,''.

(H) Section 526(a)(1) (21 U.S.C. 360bb) is amended by striking ''the submission of an application for certification of the drug under section 507,'', by inserting ''or'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(I) Section 526(b) (21 U.S.C. 360bb(b)) is amended—

(i) in paragraph (1), by striking '', a certificate was issued for the drug under section 507,''; and

(ii) in paragraph (2) by striking '', a certificate has not been issued for the drug under section 507,'' and by striking '', approval of an application for certification under section 507,''.

(J) Section 527(a) (21 U.S.C. 360cc(a)) is amended by inserting ''or'' at the end of paragraph (1), by striking paragraph (2), by redesignating paragraph (3) as paragraph (2), and by striking '', issue another certification under section 507,''.

(K) Section 527(b) (21 U.S.C. 360cc(b)) is amended by striking '', if a certification is issued under section 507 for such a drug,'', '', of the issuance of the certification under section 507,'', '', issue another certification under section 507,'', '', of such certification,'', '', of the certification,'', and '', issuance of other certications,''.

(L) Section 704(a)(1) (21 U.S.C. 374(a)(1)) is amended by striking '', section 507 (d) or (g),''.

(M) Section 735(1) (21 U.S.C. 379g(1)(C)) is amended by inserting ''or'' at the end of subparagraph (B), by striking subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(N) Subparagraphs (A)(ii) and (B) of sections 5(b)(1) of the Orphan Drug Act (21 U.S.C. 360ee(b)(1)(A), 360ee(b)(1)(B)) are each amended by striking ''or 507''.

(O) Section 45C(b)(2)(A)(ii)(II) of the Internal Revenue Code of 1986 is amended by striking ''or 507''.

(P) Section 156(f)(4)(B) of title 35, United States Code, is amended by striking ''507,'' each place it occurs.

(c) EXPORTATION.—Section 802 (21 U.S.C. 382) is amended by adding at the end the following:

''(i) Insulin and antibiotic drugs may be exported without regard to the requirements in this section if the insulin and antibiotic drugs meet the requirements of section 801(e)(1).''.

(d) TRANSITION.—

(1) IN GENERAL.—An application that was approved by the Secretary of Health and Human Services before the date of the enactment of this Act for the marketing of an antibiotic drug under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as in effect on the day before the date of the enactment of this Act, shall, on and after such date of enactment, be considered to be an application that was submitted and filed under section 505(b) of such Act (21 U.S.C. 355(b)) and approved for safety and effectiveness under section 505(c) of such Act (21 U.S.C. 355(c)), except that if such application for marketing was in the form of an abbreviated application, the application shall be considered to have been filed and approved under section 505(j) of such Act (21 U.S.C. 355(j)).

(2) EXCEPTION.—The following subsections of section 505 (21 U.S.C 355) shall not apply to any application for marketing in which the drug that is the subject of the application contains an antibiotic drug and the antibiotic drug was the subject of any application for marketing received by the Secretary of Health and Human Services under section 507 of such Act (21 U.S.C. 357) before the date of the enactment of this Act:

(A)(i) Subsections (c)(2), (d)(6), (e)(4), (j)(2)(A)(vii), (j)(2)(A)(viii), (j)(2)(B), (j)(4)(B), and (j)(4)(D); and

(ii) The third and fourth sentences of subsection (b)(1) (regarding the filing and publication of patent information); and

(B) Subsections (b)(2)(A), (b)(2)(B), (b)(3), and (c)(3) if the investigations relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted.

(3) PUBLICATION.—For purposes of this section, the Secretary is authorized to make available to the public the established name of each antibiotic drug that was the subject of any application for marketing received by the Secretary for Health and Human Services under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) before the date of enactment of this Act.

(e) DEFINITION.—Section 201 (21 U.S.C. 321), as amended by section 121(a)(1), is further amended by adding at the end the following:

''(jj) The term 'antibiotic drug' means any drug (except drugs for use in animals other than humans) composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other drug intended for human use containing any quantity of any chemical substance which is produced by a micro-organism and which has the capacity to inhibit or destroy micro-organisms in dilute solution (including a chemically synthesized equivalent of any such substance) or any derivative thereof.''.

SEC. 126. ELIMINATION OF CERTAIN LABELING REQUIREMENTS.

(a) PRESCRIPTION DRUGS.—Section 503(b)(4) (21 U.S.C. 353(b)(4)) is amended to read as follows:

''(4)(A) A drug that is subject to paragraph (1) shall be deemed to be misbranded if at any time prior to dispensing the label of the drug fails to bear, at a minimum, the symbol 'Rx only'.

''(B) A drug to which paragraph (1) does not apply shall be deemed to be misbranded if at any time prior to dispensing the label of the drug bears the symbol described in subparagraph (A).''.

(b) MISBRANDED DRUG.—Section 502(d) (21 U.S.C. 352(d)) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 503(b)(1) (21 U.S.C. 353(b)(1)) is amended—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) Section 503(b)(3) (21 U.S.C. 353(b)(3)) is amended by striking ''section 502(d) and''.

(3) Section 102(9)(A) of the Controlled Substances Act (21 U.S.C. 802(9)(A)) is amended—

(A) in clause (i), by striking ''(i)''; and

(B) by striking ''(ii)'' and all that follows.

SEC. 127. APPLICATION OF FEDERAL LAW TO PRACTICE OF PHARMACY COMPOUNDING.

(a) AMENDMENT.—Chapter V is amended by inserting after section 503 (21 U.S.C. 353) the following:

''SEC. 503A. PHARMACY COMPOUNDING.

''(a) IN GENERAL.—Sections 501(a)(2)(B), 502(f)(1), and 505 shall not apply to a drug product if the drug product is compounded for an identified individual patient based on the unsolicited receipt of a valid prescription order or a notation, approved by the prescribing practitioner, on the prescription order that a compounded product is necessary for the identified patient, if the drug product meets the requirements of this section, and if the compounding—

''(1) is by—

''(A) a licensed pharmacist in a State licensed pharmacy or a Federal facility, or

''(B) a licensed physician,

on the prescription order for such individual patient made by a licensed physician or other licensed practitioner authorized by State law to prescribe drugs; or

''(2)(A) is by a licensed pharmacist or licensed physician in limited quantities before the receipt of a valid prescription order for such individual patient; and

''(B) is based on a history of the licensed pharmacist or licensed physician receiving valid prescription orders for the compounding of the drug product, which orders have been generated solely within an established relationship between—

''(i) the licensed pharmacist or licensed physician; and

''(ii)(I) such individual patient for whom the prescription order will be provided; or

''(II) the physician or other licensed practitioner who will write such prescription order.

''(b) COMPOUNDED DRUG.—

''(1) LICENSED PHARMACIST AND LICENSED PHYSICIAN.—A drug product may be compounded under subsection (a) if the licensed pharmacist or licensed physician—

''(A) compounds the drug product using bulk drug substances, as defined in regulations of the Secretary published at section 207.3(a)(4) of title 21 of the Code of Federal Regulations—

''(i) that—

''(I) comply with the standards of an applicable United States Pharmacopoeia or National Formulary monograph, if a monograph exists, and the United States Pharmacopoeia chapter on pharmacy compounding;

''(II) if such a monograph does not exist, are drug substances that are components of drugs approved by the Secretary; or

''(III) if such a monograph does not exist and the drug substance is not a component of a drug approved by the Secretary, that appear on a list developed by the Secretary through regulations issued by the Secretary under subsection (d);

''(ii) that are manufactured by an establishment that is registered under section 510 (including a foreign establishment that is registered under section 510(i)); and

''(iii) that are accompanied by valid certificates of analysis for each bulk drug substance;

''(B) compounds the drug product using ingredients (other than bulk drug substances) that comply with the standards of an applicable United States Pharmacopoeia or National Formulary monograph, if a monograph exists, and the United States Pharmacopoeia chapter on pharmacy compounding;

''(C) does not compound a drug product that appears on a list published by the Secretary in the Federal Register of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective; and

''(D) does not compound regularly or in inordinate amounts (as defined by the Secretary) any drug products that are essentially copies of a commercially available drug product.

''(2) DEFINITION.—For purposes of paragraph (1)(D), the term 'essentially a copy of a commercially available drug product' does not include a drug product in which there is a change, made for an identified individual patient, which produces for that patient a significant difference, as determined by the prescribing practitioner, between the compounded drug and the comparable commercially available drug product.

''(3) DRUG PRODUCT.—A drug product may be compounded under subsection (a) only if—

''(A) such drug product is not a drug product identified by the Secretary by regulation as a drug product that presents demonstrable difficulties for compounding that reasonably demonstrate an adverse effect on the safety or effectiveness of that drug product; and

''(B) such drug product is compounded in a State—

''(i) that has entered into a memorandum of understanding with the Secretary which addresses the distribution of inordinate amounts of compounded drug products interstate and provides for appropriate investigation by a State agency of complaints relating to compounded drug products distributed outside such State; or

''(ii) that has not entered into the memorandum of understanding described in clause (i) and the licensed pharmacist, licensed pharmacy, or licensed physician distributes (or causes to be distributed) compounded drug products out of the State in which they are compounded in quantities that do not exceed 5 percent of the total prescription orders dispensed or distributed by such pharmacy or physician.

The Secretary shall, in consultation with the National Association of Boards of Pharmacy, develop a standard memorandum of understanding for use by the States in complying with subparagraph (B)(i).

''(c) ADVERTISING AND PROMOTION.—A drug may be compounded under subsection (a) only if the pharmacy, licensed pharmacist, or licensed physician does not advertise or promote the compounding of any particular drug, class of drug, or type of drug. The pharmacy, licensed pharmacist, or licensed physician may advertise and promote the compounding service provided by the licensed pharmacist or licensed physician.

''(d) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall issue regulations to implement this section. Before issuing regulations to implement subsections (b)(1)(A)(i)(III), (b)(1)(C), or (b)(3)(A), the Secretary shall convene and consult an advisory committee on compounding unless the Secretary determines that the issuance of such regulations before consultation is necessary to protect the public health. The advisory committee shall include representatives from the National Association of Boards of Pharmacy, the United States Pharmacopoeia, pharmacy, physician, and consumer organizations, and other experts selected by the Secretary.

''(2) LIMITING COMPOUNDING.—The Secretary, in consultation with the United States Pharmacopoeia Convention, Incorporated, shall promulgate regulations identifying drug substances that may be used in compounding under subsection (b)(1)(A)(i)(III) for which a monograph does not exist or which are not components of drug products approved by the Secretary. The Secretary shall include in the regulation the criteria for such substances, which shall include historical use, reports in peer reviewed medical literature, or other criteria the Secretary may identify.

''(e) APPLICATION.—This section shall not apply to—

''(1) compounded positron emission tomography drugs as defined in section 201(ii); or

''(2) radiopharmaceuticals.

''(f) DEFINITION.—As used in this section, the term 'compounding' does not include mixing, reconstituting, or other such acts that are performed in accordance with directions contained in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with that labeling.''.

(b) EFFECTIVE DATE.—Section 503A of the Federal Food, Drug, and Cosmetic Act, added by subsection (a), shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act.

SEC. 128. REAUTHORIZATION OF CLINICAL PHARMACOLOGY PROGRAM.

Section 2 of Public Law 102–222 (105 Stat. 1677) is amended—

(1) in subsection (a), by striking ''a grant'' and all that follows through ''Such grant'' and inserting the following: ''grants for a pilot program for the training of individuals in clinical pharmacology at appropriate medical schools. Such grants''; and

(2) in subsection (b), by striking ''to carry out this section'' and inserting '', and for fiscal years 1998 through 2002 $3,000,000 for each fiscal year, to carry out this section''.

SEC. 129. REGULATIONS FOR SUNSCREEN PRODUCTS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue regulations for over-the-counter sunscreen products for the prevention or treatment of sunburn.

SEC. 130. REPORTS OF POSTMARKETING APPROVAL STUDIES.

(a) IN GENERAL.—Chapter V, as amended by section 116, is further amended by inserting after section 506A the following:

''SEC. 506B. REPORTS OF POSTMARKETING STUDIES.

''(a) SUBMISSION.—

''(1) IN GENERAL.—A sponsor of a drug that has entered into an agreement with the Secretary to conduct a postmarketing study of a drug shall submit to the Secretary, within 1 year after the approval of such drug and annually thereafter until the study is completed or terminated, a report of the progress of the study or the reasons for the failure of the sponsor to conduct the study. The report shall be submitted in such form as is prescribed by the Secretary in regulations issued by the Secretary.

''(2) AGREEMENTS PRIOR TO EFFECTIVE DATE.—Any agreement entered into between the Secretary and a sponsor of a drug, prior to the date of enactment of the Food and Drug Administration Modernization Act of 1997, to conduct a postmarketing study of a drug shall be subject to the requirements of paragraph (1). An initial report for such an agreement shall be submitted within 6 months after the date of the issuance of the regulations under paragraph (1).

''(b) CONSIDERATION OF INFORMATION AS PUBLIC INFORMATION.—Any information pertaining to a report described in subsection (a) shall be considered to be public information to the extent that the information is necessary—

''(1) to identify the sponsor; and

''(2) to establish the status of a study described in subsection (a) and the reasons, if any, for any failure to carry out the study.

''(c) STATUS OF STUDIES AND REPORTS.—The Secretary shall annually develop and publish in the Federal Register a report that provides information on the status of the postmarketing studies—

''(1) that sponsors have entered into agreements to conduct; and

''(2) for which reports have been submitted under subsection (a)(1).''.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than October 1, 2001, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report containing—

(1) a summary of the reports submitted under section 506B of the Federal Food, Drug, and Cosmetic Act;

(2) an evaluation of—

(A) the performance of the sponsors referred to in such section in fulfilling the agreements with respect to the conduct of postmarketing studies described in such section of such Act; and

(B) the timeliness of the Secretary's review of the postmarketing studies; and

(3) any legislative recommendations respecting the postmarketing studies.

SEC. 131. NOTIFICATION OF DISCONTINUANCE OF A LIFE SAVING PRODUCT.

(a) IN GENERAL.—Chapter V, as amended by section 130, is further amended by inserting after section 506B the following:

''SEC. 506C. DISCONTINUANCE OF A LIFE SAVING PRODUCT.

''(a) IN GENERAL.—A manufacturer that is the sole manufacturer of a drug—

''(1) that is—

''(A) life-supporting;

''(B) life-sustaining; or

''(C) intended for use in the prevention of a debilitating disease or condition;

''(2) for which an application has been approved under section 505(b) or 505(j); and

''(3) that is not a product that was originally derived from human tissue and was replaced by a recombinant product,

shall notify the Secretary of a discontinuance of the manufacture of the drug at least 6 months prior to the date of the discontinuance.

''(b) REDUCTION IN NOTIFICATION PERIOD.—The notification period required under subsection (a) for a manufacturer may be reduced if the manufacturer certifies to the Secretary that good cause exists for the reduction, such as a situation in which—

''(1) a public health problem may result from continuation of the manufacturing for the 6-month period;

''(2) a biomaterials shortage prevents the continuation of the manufacturing for the 6-month period;

''(3) a liability problem may exist for the manufacturer if the manufacturing is continued for the 6-month period;

''(4) continuation of the manufacturing for the 6-month period may cause substantial economic hardship for the manufacturer;

''(5) the manufacturer has filed for bankruptcy under chapter 7 or 11 of title 11, United States Code; or

''(6) the manufacturer can continue the distribution of the drug involved for 6 months.

''(c) DISTRIBUTION.—To the maximum extent practicable, the Secretary shall distribute information on the discontinuation of the drugs described in subsection (a) to appropriate physician and patient organizations.''.

TITLE II—IMPROVING REGULATION OF DEVICES

SEC. 201. INVESTIGATIONAL DEVICE EXEMPTIONS.

(a) IN GENERAL.—Section 520(g) (21 U.S.C. 360j(g)) is amended by adding at the end the following:

''(6)(A) Not later than 1 year after the date of the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall by regulation establish, with respect to a device for which an exemption under this subsection is in effect, procedures and conditions that, without requiring an additional approval of an application for an exemption or the approval of a supplement to such an application, permit—

''(i) developmental changes in the device (including manufacturing changes) that do not constitute a significant change in design or in basic principles of operation and that are made in response to information gathered during the course of an investigation; and

''(ii) changes or modifications to clinical protocols that do not affect—

''(I) the validity of data or information resulting from the completion of an approved protocol, or the relationship of likely patient risk to benefit relied upon to approve a protocol;

''(II) the scientific soundness of an investigational plan submitted under paragraph (3)(A); or

''(III) the rights, safety, or welfare of the human subjects involved in the investigation.

''(B) Regulations under subparagraph (A) shall provide that a change or modification described in such subparagraph may be made if—

''(i) the sponsor of the investigation determines, on the basis of credible information (as defined by the Secretary) that the applicable conditions under subparagraph (A) are met; and

''(ii) the sponsor submits to the Secretary, not later than 5 days after making the change or modification, a notice of the change or modification.

''(7)(A) In the case of a person intending to investigate the safety or effectiveness of a class III device or any implantable device, the Secretary shall ensure that the person has an opportunity, prior to submitting an application to the Secretary or to an institutional review committee, to submit to the Secretary, for review, an investigational plan (including a clinical protocol). If the applicant submits a written request for a meeting with the Secretary regarding such review, the Secretary shall, not later than 30 days after receiving the request, meet with the applicant for the purpose of reaching agreement regarding the investigational plan (including a clinical protocol). The written request shall include a detailed description of the device, a detailed description of the proposed conditions of use of the device, a proposed plan (including a clinical protocol) for determining whether there is a reasonable assurance of effectiveness, and, if available, information regarding the expected performance from the device.

''(B) Any agreement regarding the parameters of an investigational plan (including a clinical protocol) that is reached between the Secretary and a sponsor or applicant shall be reduced to writing and made part of the administrative record by the Secretary. Any such agreement shall not be changed, except—

''(i) with the written agreement of the sponsor or applicant; or

''(ii) pursuant to a decision, made in accordance with subparagraph (C) by the director of the office in which the device involved is reviewed, that a substantial scientific issue essential to determining the safety or effectiveness of the device involved has been identified.

''(C) A decision under subparagraph (B)(ii) by the director shall be in writing, and may be made only after the Secretary has provided to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant are present and at which the director documents the scientific issue involved.''.

(b) ACTION ON APPLICATION.—Section 515(d)(1)(B) (21 U.S.C. 360e(d)(1)(B)) is amended by adding at the end the following:

''(iii) The Secretary shall accept and review statistically valid and reliable data and any other information from investigations conducted under the authority of regulations required by section 520(g) to make a determination of whether there is a reasonable assurance of safety and effectiveness of a device subject to a pending application under this section if—

''(I) the data or information is derived from investigations of an earlier version of the device, the device has been modified during or after the investigations (but prior to submission of an application under subsection (c)) and such a modification of the device does not constitute a significant change in the design or in the basic principles of operation of the device that would invalidate the data or information; or

''(II) the data or information relates to a device approved under this section, is available for use under this Act, and is relevant to the design and intended use of the device for which the application is pending.''.

SEC. 202. SPECIAL REVIEW FOR CERTAIN DEVICES.

Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by adding at the end the following:

''(5) In order to provide for more effective treatment or diagnosis of life-threatening or irreversibly debilitating human diseases or conditions, the Secretary shall provide review priority for devices—

''(A) representing breakthrough technologies,

''(B) for which no approved alternatives exist,

''(C) which offer significant advantages over existing approved alternatives, or

''(D) the availability of which is in the best interest of the patients.''.

SEC. 203. EXPANDING HUMANITARIAN USE OF DEVICES.

Section 520(m) (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (2), by adding after and below subparagraph (C) the following sentences:

''The request shall be in the form of an application submitted to the Secretary. Not later than 75 days after the date of the receipt of the application, the Secretary shall issue an order approving or denying the application.'';

(2) in paragraph (4)—

(A) in subparagraph (B), by inserting after ''(2)(A)'' the following: '', unless a physician determines in an emergency situation that approval from a local institutional review committee can not be obtained in time to prevent serious harm or death to a patient''; and

(B) by adding after and below subparagraph (B) the following:

''In a case described in subparagraph (B) in which a physician uses a device without an approval from an institutional review committee, the physician shall, after the use of the device, notify the chairperson of the local institutional review committee of such use. Such notification shall include the identification of the patient involved, the date on which the device was used, and the reason for the use.'';

(3) by amending paragraph (5) to read as follows:

''(5) The Secretary may require a person granted an exemption under paragraph (2) to demonstrate continued compliance with the requirements of this subsection if the Secretary believes such demonstration to be necessary to protect the public health or if the Secretary has reason to believe that the criteria for the exemption are no longer met.''; and

(4) by amending paragraph (6) to read as follows:

''(6) The Secretary may suspend or withdraw an exemption from the effectiveness requirements of sections 514 and 515 for a humanitarian device only after providing notice and an opportunity for an informal hearing.''.

SEC. 204. DEVICE STANDARDS.

(a) ALTERNATIVE PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended by adding at the end the following:

''Recognition of a Standard

''(c)(1)(A) In addition to establishing a performance standard under this section, the Secretary shall, by publication in the Federal Register, recognize all or part of an appropriate standard established by a nationally or internationally recognized standard development organization for which a person may submit a declaration of conformity in order to meet a premarket submission requirement or other requirement under this Act to which such standard is applicable.

''(B) If a person elects to use a standard recognized by the Secretary under subparagraph (A) to meet the requirements described in such subparagraph, the person shall provide a declaration of conformity to the Secretary that certifies that the device is in conformity with such standard. A person may elect to use data, or information, other than data required by a standard recognized under subparagraph (A) to meet any requirement regarding devices under this Act.

''(2) The Secretary may withdraw such recognition of a standard through publication of a notice in the Federal Register if the Secretary determines that the standard is no longer appropriate for meeting a requirement regarding devices under this Act.

''(3)(A) Subject to subparagraph (B), the Secretary shall accept a declaration of conformity that a device is in conformity with a standard recognized under paragraph (1) unless the Secretary finds—

''(i) that the data or information submitted to support such declaration does not demonstrate that the device is in conformity with the standard identified in the declaration of conformity; or

''(ii) that the standard identified in the declaration of conformity is not applicable to the particular device under review.

''(B) The Secretary may request, at any time, the data or information relied on by the person to make a declaration of conformity with respect to a standard recognized under paragraph (1).

''(C) A person making a declaration of conformity with respect to a standard recognized under paragraph (1) shall maintain the data

and information demonstrating conformity of the device to the standard for a period of two years after the date of the classification or approval of the device by the Secretary or a period equal to the expected design life of the device, whichever is longer.''.

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

''(x) The falsification of a declaration of conformity submitted under section 514(c) or the failure or refusal to provide data or information requested by the Secretary under paragraph (3) of such section.''.

(c) SECTION 501.—Section 501(e) (21 U.S.C. 351(e)) is amended—

(1) by striking ''(e)'' and inserting ''(e)(1)''; and

(2) by inserting at the end the following:

''(2) If it is declared to be, purports to be, or is represented as, a device that is in conformity with any standard recognized under section 514(c) unless such device is in all respects in conformity with such standard.''.

(d) CONFORMING AMENDMENTS.—Section 514(a) (21 U.S.C. 360d(a)) is amended—

(1) in paragraph (1), in the second sentence, by striking ''under this section'' and inserting ''under subsection (b)'';

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking ''under this section'' and inserting ''under subsection (b)'';

(3) in paragraph (3), by striking ''under this section'' and inserting ''under subsection (b)''; and

(4) in paragraph (4), in the matter preceding subparagraph (A), by striking ''this section'' and inserting ''this subsection and subsection (b)''.

SEC. 205. SCOPE OF REVIEW; COLLABORATIVE DETERMINATIONS OF DEVICE DATA REQUIREMENTS.

(a) SECTION 513(a).—Section 513(a)(3) (21 U.S.C. 360c(a)(3)) is amended by adding at the end the following:

''(C) In making a determination of a reasonable assurance of the effectiveness of a device for which an application under section 515 has been submitted, the Secretary shall consider whether the extent of data that otherwise would be required for approval of the application with respect to effectiveness can be reduced through reliance on postmarket controls.

''(D)(i) The Secretary, upon the written request of any person intending to submit an application under section 515, shall meet with such person to determine the type of valid scientific evidence (within the meaning of subparagraphs (A) and (B)) that will be necessary to demonstrate for purposes of approval of an application the effectiveness of a device for the conditions of use proposed by such person. The written request shall include a detailed description of the device, a detailed description of the proposed conditions of use of the device, a proposed plan for determining whether there is a reasonable assurance of effectiveness, and, if available, information regarding the expected performance from the device. Within 30 days after such meeting, the Secretary shall specify in writing the type of valid scientific evidence that will provide a reasonable assurance that a device is effective under the conditions of use proposed by such person.

''(ii) Any clinical data, including one or more well-controlled investigations, specified in writing by the Secretary for demonstrating a reasonable assurance of device effectiveness shall be specified as result of a determination by the Secretary that such data are necessary to establish device effectiveness. The Secretary shall consider, in consultation with the applicant, the least burdensome appropriate means of evaluating device effectiveness that would have a reasonable likelihood of resulting in approval.

''(iii) The determination of the Secretary with respect to the specification of valid scientific evidence under clauses (i) and (ii) shall be binding upon the Secretary, unless such determination by the Secretary could be contrary to the public health.''.

(b) SECTION 513(i).—Section 513(i)(1) (21 U.S.C. 360c(i)(1)) is amended by adding at the end the following:

''(C) To facilitate reviews of reports submitted to the Secretary under section 510(k), the Secretary shall consider the extent to which reliance on postmarket controls may expedite the classification of devices under subsection (f)(1) of this section.

''(D) Whenever the Secretary requests information to demonstrate that devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to making substantial equivalence determinations. In making such request, the Secretary shall consider the least burdensome means of demonstrating substantial equivalence and request information accordingly.

''(E)(i) Any determination by the Secretary of the intended use of a device shall be based upon the proposed labeling submitted in a report for the device under section 510(k). However, when determining that a device can be found substantially equivalent to a legally marketed device, the director of the organizational unit responsible for regulating devices (in this subparagraph referred to as the 'Director') may require a statement in labeling that provides appropriate information regarding a use of the device not identified in the proposed labeling if, after providing an opportunity for consultation with the person who submitted such report, the Director determines and states in writing—

''(I) that there is a reasonable likelihood that the device will be used for an intended use not identified in the proposed labeling for the device; and

''(II) that such use could cause harm.

''(ii) Such determination shall—

''(I) be provided to the person who submitted the report within 10 days from the date of the notification of the Director's concerns regarding the proposed labeling;

''(II) specify the limitations on the use of the device not included in the proposed labeling; and

''(III) find the device substantially equivalent if the requirements of subparagraph (A) are met and if the labeling for such device conforms to the limitations specified in subclause (II).

''(iii) The responsibilities of the Director under this subparagraph may not be delegated.

''(iv) This subparagraph has no legal effect after the expiration of the five-year period beginning on the date of the enactment of the Food and Drug Administration Modernization Act of 1997.''.

(c) SECTION 515(d).—Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) in paragraph (1)(A), by adding after and below clause (ii) the following:

''In making the determination whether to approve or deny the application, the Secretary shall rely on the conditions of use included in the proposed labeling as the basis for determining whether or not there is a reasonable assurance of safety and effectiveness, if the proposed labeling is neither false nor misleading. In determining whether or not such labeling is false or misleading, the Secretary shall fairly evaluate all material facts pertinent to the proposed labeling.''; and

(2) by adding after paragraph (5) (as added by section 202(2)) the following:

''(6)(A)(i) A supplemental application shall be required for any change to a device subject to an approved application under this subsection that affects safety or effectiveness, unless such change is a modification in a manufacturing procedure or method of manufacturing and the holder of the approved application submits a written notice to the Secretary that describes in detail the change, summarizes the data or information supporting the change, and informs the Secretary that the change has been made under the requirements of section 520(f).

''(ii) The holder of an approved application who submits a notice under clause (i) with respect to a manufacturing change of a device may distribute the device 30 days after the date on which the Secretary receives the notice, unless the Secretary within such 30-day period notifies the holder that the notice is not adequate and describes such further information or action that is required for acceptance of such change. If the Secretary notifies the holder that a supplemental application is required, the Secretary shall review the supplement within 135 days after the receipt of the supplement. The time used by the Secretary to review the notice of the manufacturing change shall be deducted from the 135-day review period if the notice meets appropriate content requirements for premarket approval supplements.

''(B)(i) Subject to clause (ii), in reviewing a supplement to an approved application, for an incremental change to the design of a device that affects safety or effectiveness, the Secretary shall approve such supplement if—

''(I) nonclinical data demonstrate that the design modification creates the intended additional capacity, function, or performance of the device; and

''(II) clinical data from the approved application and any supplement to the approved application provide a reasonable assurance of safety and effectiveness for the changed device.

''(ii) The Secretary may require, when necessary, additional clinical data to evaluate the design modification of the device to provide a reasonable assurance of safety and effectiveness.''.

SEC. 206. PREMARKET NOTIFICATION.

(a) SECTION 510.—Section 510 (21 U.S.C. 360) is amended—

(1) in subsection (k), in the matter preceding paragraph (1), by adding after ''report to the Secretary'' the following: ''or person who is accredited under section 523(a)''; and

(2) by adding at the end the following subsections:

''(l) A report under subsection (k) is not required for a device intended for human use that is exempted from the requirements of this subsection under subsection (m) or is within a type that has been classified into class I under section 513. The exception established in the preceding sentence does not apply to any class I device that is intended for a use which is of substantial importance in preventing impairment of human health, or to any class I device that presents a potential unreasonable risk of illness or injury.

''(m)(1) Not later than 60 days after the date of enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall publish in the Federal Register a list of each type of class II device that does not require a report under subsection (k) to provide reasonable assurance of safety and effectiveness. Each type of class II device identified by the Secretary as not requiring the report shall be exempt from the requirement to provide a report under subsection (k) as of the date of the publication of the list in the Federal Register.

''(2) Beginning on the date that is 1 day after the date of the publication of a list under this subsection, the Secretary may exempt a class II device from the requirement to submit a report under subsection (k), upon the Secretary's own initiative or a petition of an interested person, if the Secretary determines that such report is not necessary to assure the safety and effectiveness of the device. The Secretary shall publish in the Federal Register notice of the intent of the Secretary to exempt the device, or of the petition, and provide a 30-day period for public comment. Within 120 days after the issuance of the notice in the Federal Register, the Secretary shall publish an order in the Federal Register that sets forth the final determination of the Secretary

regarding the exemption of the device that was the subject of the notice. If the Secretary fails to respond to a petition within 180 days of receiving it, the petition shall be deemed to be granted.''.

(b) SECTION 513(f).—Section 513(f) (21 U.S.C. 360c(f)) is amended by adding at the end the following:

''(5) The Secretary may not withhold a determination of the initial classification of a device under paragraph (1) because of a failure to comply with any provision of this Act unrelated to a substantial equivalence decision, including a finding that the facility in which the device is manufactured is not in compliance with good manufacturing requirements as set forth in regulations of the Secretary under section 520(f) (other than a finding that there is a substantial likelihood that the failure to comply with such regulations will potentially present a serious risk to human health).''.

(c) SECTION 513(i).—Section 513(i)(1) (21 U.S.C. 360c(i)), as amended by section 205(b), is amended—

(1) in subparagraph (A)(ii)—

(A) in subclause (I), by striking ''clinical data'' and inserting ''appropriate clinical or scientific data'' and by inserting ''or a person accredited under section 523'' after ''Secretary''; and

(B) in subclause (II), by striking ''efficacy'' and inserting ''effectiveness''; and

(2) by adding at the end the following:

''(F) Not later than 270 days after the date of the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall issue guidance specifying the general principles that the Secretary will consider in determining when a specific intended use of a device is not reasonably included within a general use of such device for purposes of a determination of substantial equivalence under subsection (f) or section 520(l).''.

SEC. 207. EVALUATION OF AUTOMATIC CLASS III DESIGNATION.

Section 513(f) (21 U.S.C. 360c(f)), as amended by section 206(b), is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(B) in the last sentence, by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3)'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

''(2)(A) Any person who submits a report under section 510(k) for a type of device that has not been previously classified under this Act, and that is classified into class III under paragraph (1), may request, within 30 days after receiving written notice of such a classification, the Secretary to classify the device under the criteria set forth in subparagraphs (A) through (C) of subsection (a)(1). The person may, in the request, recommend to the Secretary a classification for the device. Any such request shall describe the device and provide detailed information and reasons for the recommended classification.

''(B)(i) Not later than 60 days after the date of the submission of the request under subparagraph (A), the Secretary shall by written order classify the device involved. Such classification shall be the initial classification of the device for purposes of paragraph (1) and any device classified under this paragraph shall be a predicate device for determining substantial equivalence under paragraph (1).

''(ii) A device that remains in class III under this subparagraph shall be deemed to be adulterated within the meaning of section 501(f)(1)(B) until approved under section 515 or exempted from such approval under section 520(g).

''(C) Within 30 days after the issuance of an order classifying a device under this paragraph, the Secretary shall publish a notice in the Federal Register announcing such classification.''.

SEC. 208. CLASSIFICATION PANELS.

Section 513(b) (21 U.S.C. 360c(b)) is amended by adding at the end the following:

''(5) Classification panels covering each type of device shall be scheduled to meet at such times as may be appropriate for the Secretary to meet applicable statutory deadlines.

''(6)(A) Any person whose device is specifically the subject of review by a classification panel shall have—

''(i) the same access to data and information submitted to a classification panel (except for data and information that are not available for public disclosure under section 552 of title 5, United States Code) as the Secretary;

''(ii) the opportunity to submit, for review by a classification panel, information that is based on the data or information provided in the application submitted under section 515 by the person, which information shall be submitted to the Secretary for prompt transmittal to the classification panel; and

''(iii) the same opportunity as the Secretary to participate in meetings of the panel.

''(B) Any meetings of a classification panel shall provide adequate time for initial presentations and for response to any differing views by persons whose devices are specifically the subject of a classification panel review, and shall encourage free and open participation by all interested persons.

''(7) After receiving from a classification panel the conclusions and recommendations of the panel on a matter that the panel has reviewed, the Secretary shall review the conclusions and recommendations, shall make a final decision on the matter in accordance with section 515(d)(2), and shall notify the affected persons of the decision in writing and, if the decision differs from the conclusions and recommendations of the panel, shall include the reasons for the difference.

''(8) A classification panel under this subsection shall not be subject to the annual chartering and annual report requirements of the Federal Advisory Committee Act.''.

SEC. 209. CERTAINTY OF REVIEW TIMEFRAMES; COLLABORATIVE REVIEW PROCESS.

(a) CERTAINTY OF REVIEW TIMEFRAMES.—Section 510 (21 U.S.C. 360), as amended by section 206(a)(2), is amended by adding at the end the following subsection:

''(n) The Secretary shall review the report required in subsection (k) and make a determination under section 513(f)(1) not later than 90 days after receiving the report.''.

(b) COLLABORATIVE REVIEW PROCESS.—Section 515(d) (21 U.S.C. 360e(d)), as amended by section 202(1), is amended by inserting after paragraph (2) the following:

''(3)(A)(i) The Secretary shall, upon the written request of an applicant, meet with the applicant, not later than 100 days after the receipt of an application that has been filed as complete under subsection (c), to discuss the review status of the application.

''(ii) The Secretary shall, in writing and prior to the meeting, provide to the applicant a description of any deficiencies in the application that, at that point, have been identified by the Secretary based on an interim review of the entire application and identify the information that is required to correct those deficiencies.

''(iii) The Secretary shall notify the applicant promptly of—

''(I) any additional deficiency identified in the application, or

''(II) any additional information required to achieve completion of the review and final action on the application,

that was not described as a deficiency in the written description provided by the Secretary under clause (ii).

''(B) The Secretary and the applicant may, by mutual consent, establish a different schedule for a meeting required under this paragraph.

SEC. 210. ACCREDITATION OF PERSONS FOR REVIEW OF PREMARKET NOTIFICATION REPORTS.

(a) IN GENERAL.—Subchapter A of chapter V is amended by adding at the end the following:

''SEC. 523. ACCREDITED PERSONS.

''(a) IN GENERAL.—

''(1) REVIEW AND CLASSIFICATION OF DEVICES.—Not later than 1 year after the date of the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall, subject to paragraph (3), accredit persons for the purpose of reviewing reports submitted under section 510(k) and making recommendations to the Secretary regarding the initial classification of devices under section 513(f)(1).

''(2) REQUIREMENTS REGARDING REVIEW.—

''(A) IN GENERAL.—In making a recommendation to the Secretary under paragraph (1), an accredited person shall notify the Secretary in writing of the reasons for the recommendation.

''(B) TIME PERIOD FOR REVIEW.—Not later than 30 days after the date on which the Secretary is notified under subparagraph (A) by an accredited person with respect to a recommendation of an initial classification of a device, the Secretary shall make a determination with respect to the initial classification.

''(C) SPECIAL RULE.—The Secretary may change the initial classification under section 513(f)(1) that is recommended under paragraph (1) by an accredited person, and in such case shall provide to such person, and the person who submitted the report under section 510(k) for the device, a statement explaining in detail the reasons for the change.

''(3) CERTAIN DEVICES.—

''(A) IN GENERAL.—An accredited person may not be used to perform a review of—

''(i) a class III device;

''(ii) a class II device which is intended to be permanently implantable or life sustaining or life supporting; or

''(iii) a class II device which requires clinical data in the report submitted under section 510(k) for the device, except that the number of class II devices to which the Secretary applies this clause for a year, less the number of such reports to which clauses (i) and (ii) apply, may not exceed 6 percent of the number that is equal to the total number of reports submitted to the Secretary under such section for such year less the number of such reports to which such clauses apply for such year.

''(B) ADJUSTMENT.—In determining for a year the ratio described in subparagraph (A)(iii), the Secretary shall not include in the numerator class III devices that the Secretary reclassified into class II, and the Secretary shall include in the denominator class II devices for which reports under section 510(k) were not required to be submitted by reason of the operation of section 510(m).

''(b) ACCREDITATION.—

''(1) PROGRAMS.—The Secretary shall provide for such accreditation through programs administered by the Food and Drug Administration, other government agencies, or by other qualified nongovernment organizations.

''(2) ACCREDITATION.—

''(A) IN GENERAL.—Not later than 180 days after the date of the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall establish and publish in the Federal Register criteria to accredit or deny accreditation to persons who request to perform the duties specified in subsection (a). The Secretary shall respond to a request for accreditation within 60 days of the receipt of the request. The accreditation of such person shall specify the particular activities under subsection (a) for which such person is accredited.

''(B) WITHDRAWAL OF ACCREDITATION.—The Secretary may suspend or withdraw accreditation of any person accredited under this paragraph, after providing notice and an opportunity for an informal hearing, when such person is substantially not in compliance with the

requirements of this section or poses a threat to public health or fails to act in a manner that is consistent with the purposes of this section.

''(C) PERFORMANCE AUDITING.—To ensure that persons accredited under this section will continue to meet the standards of accreditation, the Secretary shall—

''(i) make onsite visits on a periodic basis to each accredited person to audit the performance of such person; and

''(ii) take such additional measures as the Secretary determines to be appropriate.

''(D) ANNUAL REPORT.—The Secretary shall include in the annual report required under section 903(g) the names of all accredited persons and the particular activities under subsection (a) for which each such person is accredited and the name of each accredited person whose accreditation has been withdrawn during the year.

''(3) QUALIFICATIONS.—An accredited person shall, at a minimum, meet the following requirements:

''(A) Such person may not be an employee of the Federal Government.

''(B) Such person shall be an independent organization which is not owned or controlled by a manufacturer, supplier, or vendor of devices and which has no organizational, material, or financial affiliation with such a manufacturer, supplier, or vendor.

''(C) Such person shall be a legally constituted entity permitted to conduct the activities for which it seeks accreditation.

''(D) Such person shall not engage in the design, manufacture, promotion, or sale of devices.

''(E) The operations of such person shall be in accordance with generally accepted professional and ethical business practices and shall agree in writing that as a minimum it will—

''(i) certify that reported information accurately reflects data reviewed;

''(ii) limit work to that for which competence and capacity are available;

''(iii) treat information received, records, reports, and recommendations as proprietary information;

''(iv) promptly respond and attempt to resolve complaints regarding its activities for which it is accredited; and

''(v) protect against the use, in carrying out subsection (a) with respect to a device, of any officer or employee of the person who has a financial conflict of interest regarding the device, and annually make available to the public disclosures of the extent to which the person, and the officers and employees of the person, have maintained compliance with requirements under this clause relating to financial conflicts of interest.

''(4) SELECTION OF ACCREDITED PERSONS.—The Secretary shall provide each person who chooses to use an accredited person to receive a section 510(k) report a panel of at least two or more accredited persons from which the regulated person may select one for a specific regulatory function.

''(5) COMPENSATION OF ACCREDITED PERSONS.—Compensation for an accredited person shall be determined by agreement between the accredited person and the person who engages the services of the accredited person, and shall be paid by the person who engages such services.

''(c) DURATION.—The authority provided by this section terminates—

''(1) 5 years after the date on which the Secretary notifies Congress that at least 2 persons accredited under subsection (b) are available to review at least 60 percent of the submissions under section 510(k), or

''(2) 4 years after the date on which the Secretary notifies Congress that the Secretary has made a determination described in paragraph (2)(B) of subsection (a) for at least 35 percent of the devices that are subject to review under paragraph (1) of such subsection,

whichever occurs first.''.

(b) RECORDKEEPING.—Section 704 (21 U.S.C. 374) is amended by adding at the end the following:

''(f)(1) A person accredited under section 523 to review reports made under section 510(k) and make recommendations of initial classifications of devices to the Secretary shall maintain records documenting the training qualifications of the person and the employees of the person, the procedures used by the person for handling confidential information, the compensation arrangements made by the person, and the procedures used by the person to identify and avoid conflicts of interest. Upon the request of an officer or employee designated by the Secretary, the person shall permit the officer or employee, at all reasonable times, to have access to, to copy, and to verify, the records.

''(2) Within 15 days after the receipt of a written request from the Secretary to a person accredited under section 523 for copies of records described in paragraph (1), the person shall produce the copies of the records at the place designated by the Secretary.''.

(c) CONFORMING AMENDMENT.—Section 301 (21 U.S.C. 331), as amended by section 204(b), is amended by adding at the end the following:

''(y) In the case of a drug, device, or food—

''(1) the submission of a report or recommendation by a person accredited under section 523 that is false or misleading in any material respect;

''(2) the disclosure by a person accredited under section 523 of confidential commercial information or any trade secret without the express written consent of the person who submitted such information or secret to such person; or

''(3) the receipt by a person accredited under section 523 of a bribe in any form or the doing of any corrupt act by such person associated with a responsibility delegated to such person under this Act.''.

(d) REPORTS ON PROGRAM OF ACCREDITATION.—

(1) COMPTROLLER GENERAL.—

(A) IMPLEMENTATION OF PROGRAM.—Not later than 5 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the extent to which the program of accreditation required by the amendment made by subsection (a) has been implemented.

(B) EVALUATION OF PROGRAM.—Not later than 6 months prior to the date on which, pursuant to subsection (c) of section 523 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a), the authority provided under subsection (a) of such section will terminate, the Comptroller General shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the use of accredited persons under such section 523, including an evaluation of the extent to which such use assisted the Secretary in carrying out the duties of the Secretary under such Act with respect to devices, and the extent to which such use promoted actions which are contrary to the purposes of such Act.

(2) INCLUSION OF CERTAIN DEVICES WITHIN PROGRAM.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report providing a determination by the Secretary of whether, in the program of accreditation established pursuant to the amendment made by subsection (a), the limitation established in clause (iii) of section 523(a)(3)(A) of the Federal Food, Drug, and Cosmetic Act (relating to class II devices for which clinical data are required in reports under section 510(k)) should be removed.

SEC. 211. DEVICE TRACKING.

Effective 90 days after the date of the enactment of this Act, section 519(e) (21 U.S.C. 360i(e)) is amended to read as follows:

''Device Tracking

''(e)(1) The Secretary may by order require a manufacturer to adopt a method of tracking a class II or class III device—

''(A) the failure of which would be reasonably likely to have serious adverse health consequences; or

''(B) which is—

''(i) intended to be implanted in the human body for more than one year, or

''(ii) a life sustaining or life supporting device used outside a device user facility.

''(2) Any patient receiving a device subject to tracking under paragraph (1) may refuse to release, or refuse permission to release, the patient's name, address, social security number, or other identifying information for the purpose of tracking.''.

SEC. 212. POSTMARKET SURVEILLANCE.

Effective 90 days after the date of the enactment of this Act, section 522 (21 U.S.C. 360l) is amended to read as follows:

''POSTMARKET SURVEILLANCE

''SEC. 522. (a) IN GENERAL.—The Secretary may by order require a manufacturer to conduct postmarket surveillance for any device of the manufacturer which is a class II or class III device the failure of which would be reasonably likely to have serious adverse health consequences or which is intended to be—

''(1) implanted in the human body for more than one year, or

''(2) a life sustaining or life supporting device used outside a device user facility.

''(b) SURVEILLANCE APPROVAL.—Each manufacturer required to conduct a surveillance of a device shall, within 30 days of receiving an order from the Secretary prescribing that the manufacturer is required under this section to conduct such surveillance, submit, for the approval of the Secretary, a plan for the required surveillance. The Secretary, within 60 days of the receipt of such plan, shall determine if the person designated to conduct the surveillance has appropriate qualifications and experience to undertake such surveillance and if the plan will result in the collection of useful data that can reveal unforeseen adverse events or other information necessary to protect the public health. The Secretary, in consultation with the manufacturer, may by order require a prospective surveillance period of up to 36 months. Any determination by the Secretary that a longer period is necessary shall be made by mutual agreement between the Secretary and the manufacturer or, if no agreement can be reached, after the completion of a dispute resolution process as described in section 562.''.

SEC. 213. REPORTS.

(a) REPORTS.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''manufacturer, importer, or distributor'' and inserting ''manufacturer or importer'';

(B) in paragraph (4), by striking ''manufacturer, importer, or distributor'' and inserting ''manufacturer or importer'';

(C) in paragraph (7), by adding ''and'' after the semicolon at the end;

(D) in paragraph (8)—

(i) by striking ''manufacturer, importer, or distributor'' each place such term appears and inserting ''manufacturer or importer''; and

(ii) by striking the semicolon at the end and inserting a period;

(E) by striking paragraph (9); and

(F) by inserting at the end the following sentence: ''The Secretary shall by regulation require distributors to keep records and make such records available to the Secretary upon request. Paragraphs (4) and (8) apply to distributors to

the same extent and in the same manner as such paragraphs apply to manufacturers and importers.'';

(2) by striking subsection (d); and

(3) in subsection (f), by striking '', importer, or distributor'' each place it appears and inserting ''or importer''.

(b) REGISTRATION.—Section 510(g) (21 U.S.C. 360(g)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting after paragraph (3) the following:

''(4) any distributor who acts as a wholesale distributor of devices, and who does not manufacture, repackage, process, or relabel a device; or''; and

(3) by adding at the end the following flush sentence:

''In this subsection, the term 'wholesale distributor' means any person (other than the manufacturer or the initial importer) who distributes a device from the original place of manufacture to the person who makes the final delivery or sale of the device to the ultimate consumer or user.''.

(c) DEVICE USER FACILITIES.—

(1) IN GENERAL.—Section 519(b) (21 U.S.C. 360i(b)) is amended—

(A) in paragraph (1)(C)—

(i) in the first sentence, by striking ''a semiannual basis'' and inserting ''an annual basis'';

(ii) in the second sentence, by striking ''and July 1''; and

(iii) by striking the matter after and below clause (iv); and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ''or'' after the comma at the end;

(ii) in subparagraph (B), by striking '', or'' at the end and inserting a period; and

(iii) by striking subparagraph (C).

(2) SENTINEL SYSTEM.—Section 519(b) (21 U.S.C. 360i(b)) is amended—

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

(B) by inserting after paragraph (4) the following paragraph:

''(5) With respect to device user facilities:

''(A) The Secretary shall by regulation plan and implement a program under which the Secretary limits user reporting under paragraphs (1) through (4) to a subset of user facilities that constitutes a representative profile of user reports for device deaths and serious illnesses or serious injuries.

''(B) During the period of planning the program under subparagraph (A), paragraphs (1) through (4) continue to apply.

''(C) During the period in which the Secretary is providing for a transition to the full implementation of the program, paragraphs (1) through (4) apply except to the extent that the Secretary determines otherwise.

''(D) On and after the date on which the program is fully implemented, paragraphs (1) through (4) do not apply to a user facility unless the facility is included in the subset referred to in subparagraph (A).

''(E) Not later than 2 years after the date of the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the plan developed by the Secretary under subparagraph (A) and the progress that has been made toward the implementation of the plan.''.

SEC. 214. PRACTICE OF MEDICINE.

Chapter IX is amended by adding at the end the following:

''SEC. 906. PRACTICE OF MEDICINE.

''Nothing in this Act shall be construed to limit or interfere with the authority of a health care practitioner to prescribe or administer any legally marketed device to a patient for any condition or disease within a legitimate health care practitioner-patient relationship. This section shall not limit any existing authority of the Secretary to establish and enforce restrictions on the sale or distribution, or in the labeling, of a device that are part of a determination of substantial equivalence, established as a condition of approval, or promulgated through regulations. Further, this section shall not change any existing prohibition on the promotion of unapproved uses of legally marketed devices.''.

SEC. 215. NONINVASIVE BLOOD GLUCOSE METER.

(a) FINDINGS.—The Congress finds that—

(1) diabetes and its complications are a leading cause of death by disease in America;

(2) diabetes affects approximately 16,000,000 Americans and another 650,000 will be diagnosed in 1997;

(3) the total health care-related costs of diabetes total nearly $100,000,000,000 per year;

(4) diabetes is a disease that is managed and controlled on a daily basis by the patient;

(5) the failure to properly control and manage diabetes results in costly and often fatal complications including but not limited to blindness, coronary artery disease, and kidney failure;

(6) blood testing devices are a critical tool for the control and management of diabetes, and existing blood testing devices require repeated piercing of the skin;

(7) the pain associated with existing blood testing devices creates a disincentive for people with diabetes to test blood glucose levels, particularly children;

(8) a safe and effective noninvasive blood glucose meter would likely improve control and management of diabetes by increasing the number of tests conducted by people with diabetes, particularly children; and

(9) the Food and Drug Administration is responsible for reviewing all applications for new medical devices in the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the availability of a safe, effective, noninvasive blood glucose meter would greatly enhance the health and well-being of all people with diabetes across America and the world.

SEC. 216. USE OF DATA RELATING TO PREMARKET APPROVAL; PRODUCT DEVELOPMENT PROTOCOL.

(a) USE OF DATA RELATING TO PREMARKET APPROVAL.—

(1) IN GENERAL.—Section 520(h)(4) (21 U.S.C. 360j(h)(4)) is amended to read as follows:

''(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c) (including information from clinical and preclinical tests or studies that demonstrate the safety and effectiveness of a device, but excluding descriptions of methods of manufacture and product composition and other trade secrets) shall be available, 6 years after the application has been approved by the Secretary, for use by the Secretary in—

''(i) approving another device;

''(ii) determining whether a product development protocol has been completed, under section 515 for another device;

''(iii) establishing a performance standard or special control under this Act; or

''(iv) classifying or reclassifying another device under section 513 and subsection (l)(2).

''(B) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for the agency actions described in subparagraph (A).''.

(2) CONFORMING AMENDMENTS.—Section 517(a) (21 U.S.C. 360g(a)) is amended—

(A) in paragraph (8), by adding ''or'' at the end;

(B) in paragraph (9), by striking '', or'' and inserting a comma; and

(C) by striking paragraph (10).

(b) PRODUCT DEVELOPMENT PROTOCOL.—Section 515(f)(2) (21 U.S.C. 360e(f)(2)) is amended by striking ''he shall'' and all that follows and inserting the following: ''the Secretary—

''(A) may, at the initiative of the Secretary, refer the proposed protocol to the appropriate panel under section 513 for its recommendation respecting approval of the protocol; or

''(B) shall so refer such protocol upon the request of the submitter, unless the Secretary finds that the proposed protocol and accompanying data which would be reviewed by such panel substantially duplicate a product development protocol and accompanying data which have previously been reviewed by such a panel.''.

SEC. 217. CLARIFICATION OF THE NUMBER OF REQUIRED CLINICAL INVESTIGATIONS FOR APPROVAL.

Section 513(a)(3)(A) (21 U.S.C. 360c(a)(3)(A)) is amended by striking ''clinical investigations'' and inserting ''1 or more clinical investigations''.

TITLE III—IMPROVING REGULATION OF FOOD

SEC. 301. FLEXIBILITY FOR REGULATIONS REGARDING CLAIMS.

Section 403(r) (21 U.S.C. 343(r)) is amended by adding at the end the following:

''(7) The Secretary may make proposed regulations issued under this paragraph effective upon publication pending consideration of public comment and publication of a final regulation if the Secretary determines that such action is necessary—

''(A) to enable the Secretary to review and act promptly on petitions the Secretary determines provide for information necessary to—

''(i) enable consumers to develop and maintain healthy dietary practices;

''(ii) enable consumers to be informed promptly and effectively of important new knowledge regarding nutritional and health benefits of food; or

''(iii) ensure that scientifically sound nutritional and health information is provided to consumers as soon as possible; or

''(B) to enable the Secretary to act promptly to ban or modify a claim under this paragraph.

Such proposed regulations shall be deemed final agency action for purposes of judicial review.''.

SEC. 302. PETITIONS FOR CLAIMS.

Section 403(r)(4)(A)(i) (21 U.S.C. 343(r)(4)(A)(i)) is amended—

(1) by adding after the second sentence the following: ''If the Secretary does not act within such 100 days, the petition shall be deemed to be denied unless an extension is mutually agreed upon by the Secretary and the petitioner.'';

(2) in the fourth sentence (as amended by paragraph (1)) by inserting immediately before the comma the following: ''or the petition is deemed to be denied''; and

(3) by adding at the end the following: ''If the Secretary does not act within such 90 days, the petition shall be deemed to be denied unless an extension is mutually agreed upon by the Secretary and the petitioner. If the Secretary issues a proposed regulation, the rulemaking shall be completed within 540 days of the date the petition is received by the Secretary. If the Secretary does not issue a regulation within such 540 days, the Secretary shall provide the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the reasons action on the regulation did not occur within such 540 days.''.

SEC. 303. HEALTH CLAIMS FOR FOOD PRODUCTS.

Section 403(r)(3) (21 U.S.C. 343(r)(3)) is amended by adding at the end thereof the following:

''(C) Notwithstanding the provisions of clauses (A)(i) and (B), a claim of the type described in subparagraph (1)(B) which is not authorized by the Secretary in a regulation promulgated in accordance with clause (B) shall be

authorized and may be made with respect to a food if—

''(i) a scientific body of the United States Government with official responsibility for public health protection or research directly relating to human nutrition (such as the National Institutes of Health or the Centers for Disease Control and Prevention) or the National Academy of Sciences or any of its subdivisions has published an authoritative statement, which is currently in effect, about the relationship between a nutrient and a disease or health-related condition to which the claim refers;

''(ii) a person has submitted to the Secretary, at least 120 days (during which the Secretary may notify any person who is making a claim as authorized by clause (C) that such person has not submitted all the information required by such clause) before the first introduction into interstate commerce of the food with a label containing the claim, (I) a notice of the claim, which shall include the exact words used in the claim and shall include a concise description of the basis upon which such person relied for determining that the requirements of subclause (i) have been satisfied, (II) a copy of the statement referred to in subclause (i) upon which such person relied in making the claim, and (III) a balanced representation of the scientific literature relating to the relationship between a nutrient and a disease or health-related condition to which the claim refers;

''(iii) the claim and the food for which the claim is made are in compliance with clause (A)(ii) and are otherwise in compliance with paragraph (a) and section 201(n); and

''(iv) the claim is stated in a manner so that the claim is an accurate representation of the authoritative statement referred to in subclause (i) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

For purposes of this clause, a statement shall be regarded as an authoritative statement of a scientific body described in subclause (i) only if the statement is published by the scientific body and shall not include a statement of an employee of the scientific body made in the individual capacity of the employee.

''(D) A claim submitted under the requirements of clause (C) may be made until—

''(i) such time as the Secretary issues a regulation under the standard in clause (B)(i)—

''(I) prohibiting or modifying the claim and the regulation has become effective, or

''(II) finding that the requirements of clause (C) have not been met, including finding that the petitioner has not submitted all the information required by such clause; or

''(ii) a district court of the United States in an enforcement proceeding under chapter III has determined that the requirements of clause (C) have not been met.''.

SEC. 304. NUTRIENT CONTENT CLAIMS.

Section 403(r)(2) (21 U.S.C. 343(r)(2)) is amended by adding at the end the following:

''(G) A claim of the type described in subparagraph (1)(A) for a nutrient, for which the Secretary has not promulgated a regulation under clause (A)(i), shall be authorized and may be made with respect to a food if—

''(i) a scientific body of the United States Government with official responsibility for public health protection or research directly relating to human nutrition (such as the National Institutes of Health or the Centers for Disease Control and Prevention) or the National Academy of Sciences or any of its subdivisions has published an authoritative statement, which is currently in effect, which identifies the nutrient level to which the claim refers;

''(ii) a person has submitted to the Secretary, at least 120 days (during which the Secretary may notify any person who is making a claim as authorized by clause (C) that such person has not submitted all the information required by such clause) before the first introduction into interstate commerce of the food with a label containing the claim, (I) a notice of the claim, which shall include the exact words used in the claim and shall include a concise description of the basis upon which such person relied for determining that the requirements of subclause (i) have been satisfied, (II) a copy of the statement referred to in subclause (i) upon which such person relied in making the claim, and (III) a balanced representation of the scientific literature relating to the nutrient level to which the claim refers;

''(iii) the claim and the food for which the claim is made are in compliance with clauses (A) and (B), and are otherwise in compliance with paragraph (a) and section 201(n); and

''(iv) the claim is stated in a manner so that the claim is an accurate representation of the authoritative statement referred to in subclause (i) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

For purposes of this clause, a statement shall be regarded as an authoritative statement of a scientific body described in subclause (i) only if the statement is published by the scientific body and shall not include a statement of an employee of the scientific body made in the individual capacity of the employee.

''(H) A claim submitted under the requirements of clause (G) may be made until—

''(i) such time as the Secretary issues a regulation—

''(I) prohibiting or modifying the claim and the regulation has become effective, or

''(II) finding that the requirements of clause (G) have not been met, including finding that the petitioner had not submitted all the information required by such clause; or

''(ii) a district court of the United States in an enforcement proceeding under chapter III has determined that the requirements of clause (G) have not been met.''.

SEC. 305. REFERRAL STATEMENTS.

Section 403(r)(2)(B) (21 U.S.C. 343(r)(2)(B)) is amended to read as follows:

''(B) If a claim described in subparagraph (1)(A) is made with respect to a nutrient in a food and the Secretary makes a determination that the food contains a nutrient at a level that increases to persons in the general population the risk of a disease or health-related condition that is diet related, the label or labeling of such food shall contain, prominently and in immediate proximity to such claim, the following statement: 'See nutrition information for ___ content.' The blank shall identify the nutrient associated with the increased disease or health-related condition risk. In making the determination described in this clause, the Secretary shall take into account the significance of the food in the total daily diet.''.

SEC. 306. DISCLOSURE OF IRRADIATION.

Chapter IV (21 U.S.C. 341 et seq.) is amended by inserting after section 403B the following:

''DISCLOSURE

''SEC. 403C. (a) No provision of section 201(n), 403(a), or 409 shall be construed to require on the label or labeling of a food a separate radiation disclosure statement that is more prominent than the declaration of ingredients required by section 403(i)(2).

''(b) In this section, the term 'radiation disclosure statement' means a written statement that discloses that a food has been intentionally subject to radiation.''.

SEC. 307. IRRADIATION PETITION.

Not later than 60 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall make a final determination on any petition pending with the Food and Drug Administration that would permit the irradiation of red meat under section 409(b)(1) of the Federal Food, Drug, and Cosmetic Act. If the Secretary does not make such determination, the Secretary shall, not later than 60 days following the date of the enactment of this Act, provide the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate an explanation of the process followed by the Food and Drug Administration in reviewing the petition referred to in paragraph (1) and the reasons action on the petition was delayed.

SEC. 308. GLASS AND CERAMIC WARE.

(a) IN GENERAL.—The Secretary may not implement any requirement which would ban, as an unapproved food additive, lead and cadmium based enamel in the lip and rim area of glass and ceramic ware before the expiration of one year after the date such requirement is published.

(b) LEAD AND CADMIUM BASED ENAMEL.—Unless the Secretary determines, based on available data, that lead and cadmium based enamel on glass and ceramic ware—

(1) which has less than 60 millimeters of decorating area below the external rim, and

(2) which is not, by design, representation, or custom of usage intended for use by children,

is unsafe, the Secretary shall not take any action before January 1, 2003, to ban lead and cadmium based enamel on such glass and ceramic ware. Any action taken after January 1, 2003, to ban such enamel on such glass and ceramic ware as an unapproved food additive shall be taken by regulation and such regulation shall provide that such products shall not be removed from the market before 1 year after publication of the final regulation.

SEC. 309. FOOD CONTACT SUBSTANCES.

(a) FOOD CONTACT SUBSTANCES.—Section 409(a) (21 U.S.C. 348(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''subsection (i)'' and inserting ''subsection (j)''; and

(B) by striking at the end ''or'';

(2) by striking the period at the end of paragraph (2) and inserting ''; or'';

(3) by inserting after paragraph (2) the following:

''(3) in the case of a food additive as defined in this Act that is a food contact substance, there is—

''(A) in effect, and such substance and the use of such substance are in conformity with, a regulation issued under this section prescribing the conditions under which such additive may be safely used; or

''(B) a notification submitted under subsection (h) that is effective.''; and

(4) by striking the matter following paragraph (3) (as added by paragraph (3)) and inserting the following flush sentence:

''While such a regulation relating to a food additive, or such a notification under subsection (h)(1) relating to a food additive that is a food contact substance, is in effect, and has not been revoked pursuant to subsection (i), a food shall not, by reason of bearing or containing such a food additive in accordance with the regulation or notification, be considered adulterated under section 402(a)(1).''.

(b) NOTIFICATION FOR FOOD CONTACT SUBSTANCES.—Section 409 (21 U.S.C. 348), as amended by subsection (a), is further amended—

(1) by redesignating subsections (h) and (i), as subsections (i) and (j), respectively;

(2) by inserting after subsection (g) the following:

''Notification Relating to a Food Contact Substance

''(h)(1) Subject to such regulations as may be promulgated under paragraph (3), a manufacturer or supplier of a food contact substance may, at least 120 days prior to the introduction or delivery for introduction into interstate commerce of the food contact substance, notify the

Secretary of the identity and intended use of the food contact substance, and of the determination of the manufacturer or supplier that the intended use of such food contact substance is safe under the standard described in subsection (c)(3)(A). The notification shall contain the information that forms the basis of the determination and all information required to be submitted by regulations promulgated by the Secretary.

''(2)(A) A notification submitted under paragraph (1) shall become effective 120 days after the date of receipt by the Secretary and the food contact substance may be introduced or delivered for introduction into interstate commerce, unless the Secretary makes a determination within the 120-day period that, based on the data and information before the Secretary, such use of the food contact substance has not been shown to be safe under the standard described in subsection (c)(3)(A), and informs the manufacturer or supplier of such determination.

''(B) A decision by the Secretary to object to a notification shall constitute final agency action subject to judicial review.

''(C) In this paragraph, the term 'food contact substance' means the substance that is the subject of a notification submitted under paragraph (1), and does not include a similar or identical substance manufactured or prepared by a person other than the manufacturer identified in the notification.

''(3)(A) The process in this subsection shall be utilized for authorizing the marketing of a food contact substance except where the Secretary determines that submission and review of a petition under subsection (b) is necessary to provide adequate assurance of safety, or where the Secretary and any manufacturer or supplier agree that such manufacturer or supplier may submit a petition under subsection (b).

''(B) The Secretary is authorized to promulgate regulations to identify the circumstances in which a petition shall be filed under subsection (b), and shall consider criteria such as the probable consumption of such food contact substance and potential toxicity of the food contact substance in determining the circumstances in which a petition shall be filed under subsection (b).

''(4) The Secretary shall keep confidential any information provided in a notification under paragraph (1) for 120 days after receipt by the Secretary of the notification. After the expiration of such 120 days, the information shall be available to any interested party except for any matter in the notification that is a trade secret or confidential commercial information.

''(5)(A)(i) Except as provided in clause (ii), the notification program established under this subsection shall not operate in any fiscal year unless—

''(I) an appropriation equal to or exceeding the applicable amount under clause (iv) is made for such fiscal year for carrying out such program in such fiscal year; and

''(II) the Secretary certifies that the amount appropriated for such fiscal year for the Center for Food Safety and Applied Nutrition of the Food and Drug Administration (exclusive of the appropriation referred to in subclause (I)) equals or exceeds the amount appropriated for the Center for fiscal year 1997, excluding any amount appropriated for new programs.

''(ii) The Secretary shall, not later than April 1, 1999, begin accepting and reviewing notifications submitted under the notification program established under this subsection if—

''(I) an appropriation equal to or exceeding the applicable amount under clause (iii) is made for the last six months of fiscal year 1999 for carrying out such program during such period; and

''(II) the Secretary certifies that the amount appropriated for such period for the Center for Food Safety and Applied Nutrition of the Food and Drug Administration (exclusive of the appropriation referred to in subclause (I)) equals or exceeds an amount equivalent to one-half the amount appropriated for the Center for fiscal year 1997, excluding any amount appropriated for new programs.

''(iii) For the last six months of fiscal year 1999, the applicable amount under this clause is $1,500,000, or the amount specified in the budget request of the President for the six-month period involved for carrying out the notification program in fiscal year 1999, whichever is less.

''(iv) For fiscal year 2000 and subsequent fiscal years, the applicable amount under this clause is $3,000,000, or the amount specified in the budget request of the President for the fiscal year involved for carrying out the notification program under this subsection, whichever is less.

''(B) For purposes of carrying out the notification program under this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through fiscal year 2003, except that such authorization of appropriations is not effective for a fiscal year for any amount that is less than the applicable amount under clause (iii) or (iv) of subparagraph (A), whichever is applicable.

''(C) Not later than April 1 of fiscal year 1998 and February 1 of each subsequent fiscal year, the Secretary shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate that provides an estimate of the Secretary of the costs of carrying out the notification program established under this subsection for the next fiscal year.

''(6) In this section, the term 'food contact substance' means any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food.'';

(3) in subsection (i), as so redesignated by paragraph (1), by adding at the end the following: ''The Secretary shall by regulation prescribe the procedure by which the Secretary may deem a notification under subsection (h) to no longer be effective.''; and

(4) in subsection (j), as so redesignated by paragraph (1), by striking ''subsections (b) to (h)'' and inserting ''subsections (b) to (i)''.

TITLE IV—GENERAL PROVISIONS

SEC. 401. DISSEMINATION OF INFORMATION ON NEW USES.

(a) IN GENERAL.—Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after subchapter C the following:

''SUBCHAPTER D—DISSEMINATION OF TREATMENT INFORMATION

''SEC. 551. REQUIREMENTS FOR DISSEMINATION OF TREATMENT INFORMATION ON DRUGS OR DEVICES.

''(a) IN GENERAL.—Notwithstanding sections 301(d), 502(f), and 505, and section 351 of the Public Health Service Act (42 U.S.C. 262), a manufacturer may disseminate to—

''(1) a health care practitioner;

''(2) a pharmacy benefit manager;

''(3) a health insurance issuer;

''(4) a group health plan; or

''(5) a Federal or State governmental agency;

written information concerning the safety, effectiveness, or benefit of a use not described in the approved labeling of a drug or device if the manufacturer meets the requirements of subsection (b).

''(b) SPECIFIC REQUIREMENTS.—A manufacturer may disseminate information under subsection (a) on a new use only if—

''(1)(A) in the case of drug, there is in effect for the drug an application filed under subsection (b) or (j) of section 505 or a biologics license issued under section 351 of the Public Health Service Act; or

''(B) in the case of a device, the device is being commercially distributed in accordance with a regulation under subsection (d) or (e) of section 513, an order under subsection (f) of such section, or the approval of an application under section 515;

''(2) the information meets the requirements of section 552;

''(3) the information to be disseminated is not derived from clinical research conducted by another manufacturer or if it was derived from research conducted by another manufacturer, the manufacturer disseminating the information has the permission of such other manufacturer to make the dissemination;

''(4) the manufacturer has, 60 days before such dissemination, submitted to the Secretary—

''(A) a copy of the information to be disseminated; and

''(B) any clinical trial information the manufacturer has relating to the safety or effectiveness of the new use, any reports of clinical experience pertinent to the safety of the new use, and a summary of such information;

''(5) the manufacturer has complied with the requirements of section 554 (relating to a supplemental application for such use);

''(6) the manufacturer includes along with the information to be disseminated under this subsection—

''(A) a prominently displayed statement that discloses—

''(i) that the information concerns a use of a drug or device that has not been approved or cleared by the Food and Drug Administration;

''(ii) if applicable, that the information is being disseminated at the expense of the manufacturer;

''(iii) if applicable, the name of any authors of the information who are employees of, consultants to, or have received compensation from, the manufacturer, or who have a significant financial interest in the manufacturer;

''(iv) the official labeling for the drug or device and all updates with respect to the labeling;

''(v) if applicable, a statement that there are products or treatments that have been approved or cleared for the use that is the subject of the information being disseminated pursuant to subsection (a)(1); and

''(vi) the identification of any person that has provided funding for the conduct of a study relating to the new use of a drug or device for which such information is being disseminated; and

''(B) a bibliography of other articles from a scientific reference publication or scientific or medical journal that have been previously published about the use of the drug or device covered by the information disseminated (unless the information already includes such bibliography).

''(c) ADDITIONAL INFORMATION.—If the Secretary determines, after providing notice of such determination and an opportunity for a meeting with respect to such determination, that the information submitted by a manufacturer under subsection (b)(3)(B), with respect to the use of a drug or device for which the manufacturer intends to disseminate information, fails to provide data, analyses, or other written matter that is objective and balanced, the Secretary may require the manufacturer to disseminate—

''(1) additional objective and scientifically sound information that pertains to the safety or effectiveness of the use and is necessary to provide objectivity and balance, including any information that the manufacturer has submitted to the Secretary or, where appropriate, a summary of such information or any other information that the Secretary has authority to make available to the public; and

''(2) an objective statement of the Secretary, based on data or other scientifically sound information available to the Secretary, that bears on the safety or effectiveness of the new use of the drug or device.

"SEC. 552. INFORMATION AUTHORIZED TO BE DISSEMINATED.

"(a) AUTHORIZED INFORMATION.—A manufacturer may disseminate information under section 551 on a new use only if the information—

"(1) is in the form of an unabridged—

"(A) reprint or copy of an article, peer-reviewed by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug or device involved, which was published in a scientific or medical journal (as defined in section 556(5)), which is about a clinical investigation with respect to the drug or device, and which would be considered to be scientifically sound by such experts; or

"(B) reference publication, described in subsection (b), that includes information about a clinical investigation with respect to the drug or device that would be considered to be scientifically sound by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug or device that is the subject of such a clinical investigation; and

"(2) is not false or misleading and would not pose a significant risk to the public health.

"(b) REFERENCE PUBLICATION.—A reference publication referred to in subsection (a)(1)(B) is a publication that—

"(1) has not been written, edited, excerpted, or published specifically for, or at the request of, a manufacturer of a drug or device;

"(2) has not been edited or significantly influenced by a such a manufacturer;

"(3) is not solely distributed through such a manufacturer but is generally available in bookstores or other distribution channels where medical textbooks are sold;

"(4) does not focus on any particular drug or device of a manufacturer that disseminates information under section 551 and does not have a primary focus on new uses of drugs or devices that are marketed or under investigation by a manufacturer supporting the dissemination of information; and

"(5) presents materials that are not false or misleading.

"SEC. 553. ESTABLISHMENT OF LIST OF ARTICLES AND PUBLICATIONS DISSEMINATED AND LIST OF PROVIDERS THAT RECEIVED ARTICLES AND REFERENCE PUBLICATIONS.

"(a) IN GENERAL.—A manufacturer may disseminate information under section 551 on a new use only if the manufacturer prepares and submits to the Secretary biannually—

"(1) a list containing the titles of the articles and reference publications relating to the new use of drugs or devices that were disseminated by the manufacturer to a person described in section 551(a) for the 6-month period preceding the date on which the manufacturer submits the list to the Secretary; and

"(2) a list that identifies the categories of providers (as described in section 551(a)) that received the articles and reference publications for the 6-month period described in paragraph (1).

"(b) RECORDS.—A manufacturer that disseminates information under section 551 shall keep records that may be used by the manufacturer when, pursuant to section 555, such manufacturer is required to take corrective action and shall be made available to the Secretary, upon request, for purposes of ensuring or taking corrective action pursuant to such section. Such records, at the Secretary's discretion, may identify the recipient of information provided pursuant to section 551 or the categories of such recipients.

"SEC. 554. REQUIREMENT REGARDING SUBMISSION OF SUPPLEMENTAL APPLICATION FOR NEW USE; EXEMPTION FROM REQUIREMENT.

"(a) IN GENERAL.—A manufacturer may disseminate information under section 551 on a new use only if—

"(1)(A) the manufacturer has submitted to the Secretary a supplemental application for such use; or

"(B) the manufacturer meets the condition described in subsection (b) or (c) (relating to a certification that the manufacturer will submit such an application); or

"(2) there is in effect for the manufacturer an exemption under subsection (d) from the requirement of paragraph (1).

"(b) CERTIFICATION ON SUPPLEMENTAL APPLICATION; CONDITION IN CASE OF COMPLETED STUDIES.—For purposes of subsection (a)(1)(B), a manufacturer may disseminate information on a new use if the manufacturer has submitted to the Secretary an application containing a certification that—

"(1) the studies needed for the submission of a supplemental application for the new use have been completed; and

"(2) the supplemental application will be submitted to the Secretary not later than 6 months after the date of the initial dissemination of information under section 551.

"(c) CERTIFICATION ON SUPPLEMENTAL APPLICATION; CONDITION IN CASE OF PLANNED STUDIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(1)(B), a manufacturer may disseminate information on a new use if—

"(A) the manufacturer has submitted to the Secretary an application containing—

"(i) a proposed protocol and schedule for conducting the studies needed for the submission of a supplemental application for the new use; and

"(ii) a certification that the supplemental application will be submitted to the Secretary not later than 36 months after the date of the initial dissemination of information under section 551 (or, as applicable, not later than such date as the Secretary may specify pursuant to an extension under paragraph (3)); and

"(B) the Secretary has determined that the proposed protocol is adequate and that the schedule for completing such studies is reasonable.

"(2) PROGRESS REPORTS ON STUDIES.—A manufacturer that submits to the Secretary an application under paragraph (1) shall submit to the Secretary periodic reports describing the status of the studies involved.

"(3) EXTENSION OF TIME REGARDING PLANNED STUDIES.—The period of 36 months authorized in paragraph (1)(A)(ii) for the completion of studies may be extended by the Secretary if—

"(A) the Secretary determines that the studies needed to submit such an application cannot be completed and submitted within 36 months; or

"(B) the manufacturer involved submits to the Secretary a written request for the extension and the Secretary determines that the manufacturer has acted with due diligence to conduct the studies in a timely manner, except that an extension under this subparagraph may not be provided for more than 24 additional months.

"(d) EXEMPTION FROM REQUIREMENT OF SUPPLEMENTAL APPLICATION.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), a manufacturer may disseminate information on a new use if—

"(A) the manufacturer has submitted to the Secretary an application for an exemption from meeting the requirement of subsection (a)(1); and

"(B)(i) the Secretary has approved the application in accordance with paragraph (2); or

"(ii) the application is deemed under paragraph (3)(A) to have been approved (unless such approval is terminated pursuant to paragraph (3)(B)).

"(2) CONDITIONS FOR APPROVAL.—The Secretary may approve an application under paragraph (1) for an exemption if the Secretary makes a determination described in subparagraph (A) or (B), as follows:

"(A) The Secretary makes a determination that, for reasons defined by the Secretary, it would be economically prohibitive with respect to such drug or device for the manufacturer to incur the costs necessary for the submission of a supplemental application. In making such determination, the Secretary shall consider (in addition to any other considerations the Secretary finds appropriate)—

"(i) the lack of the availability under law of any period during which the manufacturer would have exclusive marketing rights with respect to the new use involved; and

"(ii) the size of the population expected to benefit from approval of the supplemental application.

"(B) The Secretary makes a determination that, for reasons defined by the Secretary, it would be unethical to conduct the studies necessary for the supplemental application. In making such determination, the Secretary shall consider (in addition to any other considerations the Secretary finds appropriate) whether the new use involved is the standard of medical care for a health condition.

"(3) TIME FOR CONSIDERATION OF APPLICATION; DEEMED APPROVAL.—

"(A) IN GENERAL.—The Secretary shall approve or deny an application under paragraph (1) for an exemption not later than 60 days after the receipt of the application. If the Secretary does not comply with the preceding sentence, the application is deemed to be approved.

"(B) TERMINATION OF DEEMED APPROVAL.—If pursuant to a deemed approval under subparagraph (A) a manufacturer disseminates written information under section 551 on a new use, the Secretary may at any time terminate such approval and under section 555(b)(3) order the manufacturer to cease disseminating the information.

"(e) REQUIREMENTS REGARDING APPLICATIONS.—Applications under this section shall be submitted in the form and manner prescribed by the Secretary.

"SEC. 555. CORRECTIVE ACTIONS; CESSATION OF DISSEMINATION.

"(a) POSTDISSEMINATION DATA REGARDING SAFETY AND EFFECTIVENESS.—

"(1) CORRECTIVE ACTIONS.—With respect to data received by the Secretary after the dissemination of information under section 551 by a manufacturer has begun (whether received pursuant to paragraph (2) or otherwise), if the Secretary determines that the data indicate that the new use involved may not be effective or may present a significant risk to public health, the Secretary shall, after consultation with the manufacturer, take such action regarding the dissemination of the information as the Secretary determines to be appropriate for the protection of the public health, which may include ordering that the manufacturer cease the dissemination of the information.

"(2) RESPONSIBILITIES OF MANUFACTURERS TO SUBMIT DATA.—After a manufacturer disseminates information under section 551, the manufacturer shall submit to the Secretary a notification of any additional knowledge of the manufacturer on clinical research or other data that relate to the safety or effectiveness of the new use involved. If the manufacturer is in possession of the data, the notification shall include the data. The Secretary shall by regulation establish the scope of the responsibilities of manufacturers under this paragraph, including such limits on the responsibilities as the Secretary determines to be appropriate.

"(b) CESSATION OF DISSEMINATION.—

"(1) FAILURE OF MANUFACTURER TO COMPLY WITH REQUIREMENTS.—The Secretary may order a manufacturer to cease the dissemination of information pursuant to section 551 if the Secretary determines that the information being disseminated does not comply with the requirements established in this subchapter. Such an order may be issued only after the Secretary has provided notice to the manufacturer of the intent of the Secretary to issue the order and (unless paragraph (2)(B) applies) has provided an opportunity for a meeting with respect to such intent. If the failure of the manufacturer constitutes a minor violation of this subchapter, the

Secretary shall delay issuing the order and provide to the manufacturer an opportunity to correct the violation.

''(2) SUPPLEMENTAL APPLICATIONS.—The Secretary may order a manufacturer to cease the dissemination of information pursuant to section 551 if—

''(A) in the case of a manufacturer that has submitted a supplemental application for a new use pursuant to section 554(a)(1), the Secretary determines that the supplemental application does not contain adequate information for approval of the new use for which the application was submitted;

''(B) in the case of a manufacturer that has submitted a certification under section 554(b), the manufacturer has not, within the 6-month period involved, submitted the supplemental application referred to in the certification; or

''(C) in the case of a manufacturer that has submitted a certification under section 554(c) but has not yet submitted the supplemental application referred to in the certification, the Secretary determines, after an informal hearing, that the manufacturer is not acting with due diligence to complete the studies involved.

''(3) TERMINATION OF DEEMED APPROVAL OF EXEMPTION REGARDING SUPPLEMENTAL APPLICATIONS.—If under section 554(d)(3) the Secretary terminates a deemed approval of an exemption, the Secretary may order the manufacturer involved to cease disseminating the information. A manufacturer shall comply with an order under the preceding sentence not later than 60 days after the receipt of the order.

''(c) CORRECTIVE ACTIONS BY MANUFACTURERS.—

''(1) IN GENERAL.—In any case in which under this section the Secretary orders a manufacturer to cease disseminating information, the Secretary may order the manufacturer to take action to correct the information that has been disseminated, except as provided in paragraph (2).

''(2) TERMINATION OF DEEMED APPROVAL OF EXEMPTION REGARDING SUPPLEMENTAL APPLICATIONS.—In the case of an order under subsection (b)(3) to cease disseminating information, the Secretary may not order the manufacturer involved to take action to correct the information that has been disseminated unless the Secretary determines that the new use described in the information would pose a significant risk to the public health.

''SEC. 556. DEFINITIONS.

''For purposes of this subchapter:

''(1) The term 'health care practitioner' means a physician, or other individual who is a provider of health care, who is licensed under the law of a State to prescribe drugs or devices.

''(2) The terms 'health insurance issuer' and 'group health plan' have the meaning given such terms under section 2791 of the Public Health Service Act.

''(3) The term 'manufacturer' means a person who manufactures a drug or device, or who is licensed by such person to distribute or market the drug or device.

''(4) The term 'new use'—

''(A) with respect to a drug, means a use that is not included in the labeling of the approved drug; and

''(B) with respect to a device, means a use that is not included in the labeling for the approved or cleared device.

''(5) The term 'scientific or medical journal' means a scientific or medical publication—

''(A) that is published by an organization—

''(i) that has an editorial board;

''(ii) that utilizes experts, who have demonstrated expertise in the subject of an article under review by the organization and who are independent of the organization, to review and objectively select, reject, or provide comments about proposed articles; and

''(iii) that has a publicly stated policy, to which the organization adheres, of full disclosure of any conflict of interest or biases for all authors or contributors involved with the journal or organization;

''(B) whose articles are peer-reviewed and published in accordance with the regular peer-review procedures of the organization;

''(C) that is generally recognized to be of national scope and reputation;

''(D) that is indexed in the Index Medicus of the National Library of Medicine of the National Institutes of Health; and

''(E) that is not in the form of a special supplement that has been funded in whole or in part by one or more manufacturers.

''SEC. 557. RULES OF CONSTRUCTION.

''(a) UNSOLICITED REQUEST.—Nothing in section 551 shall be construed as prohibiting a manufacturer from disseminating information in response to an unsolicited request from a health care practitioner.

''(b) DISSEMINATION OF INFORMATION ON DRUGS OR DEVICES NOT EVIDENCE OF INTENDED USE.—Notwithstanding subsection (a), (f), or (o) of section 502, or any other provision of law, the dissemination of information relating to a new use of a drug or device, in accordance with section 551, shall not be construed by the Secretary as evidence of a new intended use of the drug or device that is different from the intended use of the drug or device set forth in the official labeling of the drug or device. Such dissemination shall not be considered by the Secretary as labeling, adulteration, or misbranding of the drug or device.

''(c) PATENT PROTECTION.—Nothing in section 551 shall affect patent rights in any manner.

''(d) AUTHORIZATION FOR DISSEMINATION OF ARTICLES AND FEES FOR REPRINTS OF ARTICLES.—Nothing in section 551 shall be construed as prohibiting an entity that publishes a scientific journal (as defined in section 556(5)) from requiring authorization from the entity to disseminate an article published by such entity or charging fees for the purchase of reprints of published articles from such entity.''.

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 210, is amended by adding at the end the following:

''(z) The dissemination of information in violation of section 551.''.

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to implement the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act, or upon the Secretary's issuance of final regulations pursuant to subsection (c), whichever is sooner.

(e) SUNSET.—The amendments made by this section cease to be effective September 30, 2006, or 7 years after the date on which the Secretary promulgates the regulations described in subsection (c), whichever is later.

(f) STUDIES AND REPORTS.—

(1) GENERAL ACCOUNTING OFFICE.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the impact of subchapter D of chapter V of the Federal Food, Drug, and Cosmetic Act, as added by this section, on the resources of the Department of Health and Human Services.

(B) REPORT.—Not later than January 1, 2002, the Comptroller General of the United States shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report of the results of the study.

(2) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(A) IN GENERAL.—In order to assist Congress in determining whether the provisions of such subchapter should be extended beyond the termination date specified in subsection (e), the Secretary of Health and Human Services shall, in accordance with subparagraph (B), arrange for the conduct of a study of the scientific issues raised as a result of the enactment of such subchapter including issues relating to—

(i) the effectiveness of such subchapter with respect to the provision of useful scientific information to health care practitioners;

(ii) the quality of the information being disseminated pursuant to the provisions of such subchapter;

(iii) the quality and usefulness of the information provided, in accordance with such subchapter, by the Secretary or by the manufacturer at the request of the Secretary; and

(iv) the impact of such subchapter on research in the area of new uses, indications, or dosages, particularly the impact on pediatric indications and rare diseases.

(3) PROCEDURE FOR STUDY.—

(A) IN GENERAL.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct the study required by paragraph (2), and to prepare and submit the report required by subparagraph (B), under an arrangement by which the actual expenses incurred by the Institute of Medicine in conducting the study and preparing the report will be paid by the Secretary. If the Institute of Medicine is unwilling to conduct the study under such an arrangement, the Comptroller General of the United States shall conduct such study.

(B) REPORT.—Not later than September 30, 2005, the Institute of Medicine or the Comptroller General of the United States, as appropriate, shall prepare and submit to the Committee on Labor and Human Resources of the Senate, the Committee on Commerce of the House of Representatives, and the Secretary a report of the results of the study required by paragraph (2). The Secretary, after the receipt of the report, shall make the report available to the public.

SEC. 402. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES AND DIAGNOSTICS.

Chapter V (21 U.S.C. 351 et seq.), as amended in section 401, is further amended by adding at the end the following:

''SUBCHAPTER E—GENERAL PROVISIONS RELATING TO DRUGS AND DEVICES

''SEC. 561. EXPANDED ACCESS TO UNAPPROVED THERAPIES AND DIAGNOSTICS.

''(a) EMERGENCY SITUATIONS.—The Secretary may, under appropriate conditions determined by the Secretary, authorize the shipment of investigational drugs or investigational devices for the diagnosis, monitoring, or treatment of a serious disease or condition in emergency situations.

''(b) INDIVIDUAL PATIENT ACCESS TO INVESTIGATIONAL PRODUCTS INTENDED FOR SERIOUS DISEASES.—Any person, acting through a physician licensed in accordance with State law, may request from a manufacturer or distributor, and any manufacturer or distributor may, after complying with the provisions of this subsection, provide to such physician an investigational drug or investigational device for the diagnosis, monitoring, or treatment of a serious disease or condition if—

''(1) the licensed physician determines that the person has no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat the disease or condition involved, and that the probable risk to the person from the investigational drug or investigational device is not greater than the probable risk from the disease or condition;

''(2) the Secretary determines that there is sufficient evidence of safety and effectiveness to support the use of the investigational drug or investigational device in the case described in paragraph (1);

''(3) the Secretary determines that provision of the investigational drug or investigational device will not interfere with the initiation, conduct, or completion of clinical investigations to support marketing approval; and

''(4) the sponsor, or clinical investigator, of the investigational drug or investigational device submits to the Secretary a clinical protocol consistent with the provisions of section 505(i) or 520(g), including any regulations promulgated under section 505(i) or 520(g), describing the use of the investigational drug or investigational device in a single patient or a small group of patients.

''(c) TREATMENT INVESTIGATIONAL NEW DRUG APPLICATIONS AND TREATMENT INVESTIGATIONAL DEVICE EXEMPTIONS.—Upon submission by a sponsor or a physician of a protocol intended to provide widespread access to an investigational drug or investigational device for eligible patients (referred to in this subsection as an 'expanded access protocol'), the Secretary shall permit such investigational drug or investigational device to be made available for expanded access under a treatment investigational new drug application or treatment investigational device exemption if the Secretary determines that—

''(1) under the treatment investigational new drug application or treatment investigational device exemption, the investigational drug or investigational device is intended for use in the diagnosis, monitoring, or treatment of a serious or immediately life-threatening disease or condition;

''(2) there is no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat that stage of disease or condition in the population of patients to which the investigational drug or investigational device is intended to be administered;

''(3)(A) the investigational drug or investigational device is under investigation in a controlled clinical trial for the use described in paragraph (1) under an investigational drug application in effect under section 505(i) or investigational device exemption in effect under section 520(g); or

''(B) all clinical trials necessary for approval of that use of the investigational drug or investigational device have been completed;

''(4) the sponsor of the controlled clinical trials is actively pursuing marketing approval of the investigational drug or investigational device for the use described in paragraph (1) with due diligence;

''(5) in the case of an investigational drug or investigational device described in paragraph (3)(A), the provision of the investigational drug or investigational device will not interfere with the enrollment of patients in ongoing clinical investigations under section 505(i) or 520(g);

''(6) in the case of serious diseases, there is sufficient evidence of safety and effectiveness to support the use described in paragraph (1); and

''(7) in the case of immediately life-threatening diseases, the available scientific evidence, taken as a whole, provides a reasonable basis to conclude that the investigational drug or investigational device may be effective for its intended use and would not expose patients to an unreasonable and significant risk of illness or injury.

A protocol submitted under this subsection shall be subject to the provisions of section 505(i) or 520(g), including regulations promulgated under section 505(i) or 520(g). The Secretary may inform national, State, and local medical associations and societies, voluntary health associations, and other appropriate persons about the availability of an investigational drug or investigational device under expanded access protocols submitted under this subsection. The information provided by the Secretary, in accordance with the preceding sentence, shall be the same type of information that is required by section 402(j)(3) of the Public Health Service Act.

''(d) TERMINATION.—The Secretary may, at any time, with respect to a sponsor, physician, manufacturer, or distributor described in this section, terminate expanded access provided under this section for an investigational drug or investigational device if the requirements under this section are no longer met.

''(e) DEFINITIONS.—In this section, the terms 'investigational drug', 'investigational device', 'treatment investigational new drug application', and 'treatment investigational device exemption' shall have the meanings given the terms in regulations prescribed by the Secretary.''.

SEC. 403. APPROVAL OF SUPPLEMENTAL APPLICATIONS FOR APPROVED PRODUCTS.

(a) STANDARDS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register standards for the prompt review of supplemental applications submitted for approved articles under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262).

(b) GUIDANCE TO INDUSTRY.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue final guidances to clarify the requirements for, and facilitate the submission of data to support, the approval of supplemental applications for the approved articles described in subsection (a). The guidances shall—

(1) clarify circumstances in which published matter may be the basis for approval of a supplemental application;

(2) specify data requirements that will avoid duplication of previously submitted data by recognizing the availability of data previously submitted in support of an original application; and

(3) define supplemental applications that are eligible for priority review.

(c) RESPONSIBILITIES OF CENTERS.—The Secretary shall designate an individual in each center within the Food and Drug Administration (except the Center for Food Safety and Applied Nutrition) to be responsible for—

(1) encouraging the prompt review of supplemental applications for approved articles; and

(2) working with sponsors to facilitate the development and submission of data to support supplemental applications.

(d) COLLABORATION.—The Secretary shall implement programs and policies that will foster collaboration between the Food and Drug Administration, the National Institutes of Health, professional medical and scientific societies, and other persons, to identify published and unpublished studies that may support a supplemental application, and to encourage sponsors to make supplemental applications or conduct further research in support of a supplemental application based, in whole or in part, on such studies.

SEC. 404. DISPUTE RESOLUTION.

Subchapter E of chapter V, as added by section 402, is amended by adding at the end the following:

''SEC. 562. DISPUTE RESOLUTION.

''If, regarding an obligation concerning drugs or devices under this Act or section 351 of the Public Health Service Act, there is a scientific controversy between the Secretary and a person who is a sponsor, applicant, or manufacturer and no specific provision of the Act involved, including a regulation promulgated under such Act, provides a right of review of the matter in controversy, the Secretary shall, by regulation, establish a procedure under which such sponsor, applicant, or manufacturer may request a review of such controversy, including a review by an appropriate scientific advisory panel described in section 505(n) or an advisory committee described in section 515(g)(2)(B). Any such review shall take place in a timely manner. The Secretary shall promulgate such regulations within 1 year after the date of the enactment of the Food and Drug Administration Modernization Act of 1997.''.

SEC. 405. INFORMAL AGENCY STATEMENTS.

Section 701 (21 U.S.C. 371) is amended by adding at the end the following:

''(h)(1)(A) The Secretary shall develop guidance documents with public participation and ensure that information identifying the existence of such documents and the documents themselves are made available to the public both in written form and, as feasible, through electronic means. Such documents shall not create or confer any rights for or on any person, although they present the views of the Secretary on matters under the jurisdiction of the Food and Drug Administration.

''(B) Although guidance documents shall not be binding on the Secretary, the Secretary shall ensure that employees of the Food and Drug Administration do not deviate from such guidances without appropriate justification and supervisory concurrence. The Secretary shall provide training to employees in how to develop and use guidance documents and shall monitor the development and issuance of such documents.

''(C) For guidance documents that set forth initial interpretations of a statute or regulation, changes in interpretation or policy that are of more than a minor nature, complex scientific issues, or highly controversial issues, the Secretary shall ensure public participation prior to implementation of guidance documents, unless the Secretary determines that such prior public participation is not feasible or appropriate. In such cases, the Secretary shall provide for public comment upon implementation and take such comment into account.

''(D) For guidance documents that set forth existing practices or minor changes in policy, the Secretary shall provide for public comment upon implementation.

''(2) In developing guidance documents, the Secretary shall ensure uniform nomenclature for such documents and uniform internal procedures for approval of such documents. The Secretary shall ensure that guidance documents and revisions of such documents are properly dated and indicate the nonbinding nature of the documents. The Secretary shall periodically review all guidance documents and, where appropriate, revise such documents.

''(3) The Secretary, acting through the Commissioner, shall maintain electronically and update and publish periodically in the Federal Register a list of guidance documents. All such documents shall be made available to the public.

''(4) The Secretary shall ensure that an effective appeals mechanism is in place to address complaints that the Food and Drug Administration is not developing and using guidance documents in accordance with this subsection.

''(5) Not later than July 1, 2000, the Secretary after evaluating the effectiveness of the Good Guidance Practices document, published in the Federal Register at 62 Fed. Reg. 8961, shall promulgate a regulation consistent with this subsection specifying the policies and procedures of the Food and Drug Administration for the development, issuance, and use of guidance documents.''.

SEC. 406. FOOD AND DRUG ADMINISTRATION MISSION AND ANNUAL REPORT.

(a) MISSION.—Section 903 (21 U.S.C. 393) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (a) the following:

''(b) MISSION.—The Administration shall—

''(1) promote the public health by promptly and efficiently reviewing clinical research and taking appropriate action on the marketing of regulated products in a timely manner;

''(2) with respect to such products, protect the public health by ensuring that—

''(A) foods are safe, wholesome, sanitary, and properly labeled;

''(B) human and veterinary drugs are safe and effective;

''(C) there is reasonable assurance of the safety and effectiveness of devices intended for human use;

''(D) cosmetics are safe and properly labeled; and

''(E) public health and safety are protected from electronic product radiation;

''(3) participate through appropriate processes with representatives of other countries to reduce the burden of regulation, harmonize regulatory requirements, and achieve appropriate reciprocal arrangements; and

''(4) as determined to be appropriate by the Secretary, carry out paragraphs (1) through (3) in consultation with experts in science, medicine, and public health, and in cooperation with consumers, users, manufacturers, importers, packers, distributors, and retailers of regulated products.''.

(b) ANNUAL REPORT.—Section 903 (21 U.S.C. 393), as amended by subsection (a), is further amended by adding at the end the following:

''(f) AGENCY PLAN FOR STATUTORY COMPLIANCE.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary, after consultation with appropriate scientific and academic experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry, shall develop and publish in the Federal Register a plan bringing the Secretary into compliance with each of the obligations of the Secretary under this Act. The Secretary shall review the plan biannually and shall revise the plan as necessary, in consultation with such persons.

''(2) OBJECTIVES OF AGENCY PLAN.—The plan required by paragraph (1) shall establish objectives and mechanisms to achieve such objectives, including objectives related to—

''(A) maximizing the availability and clarity of information about the process for review of applications and submissions (including petitions, notifications, and any other similar forms of request) made under this Act;

''(B) maximizing the availability and clarity of information for consumers and patients concerning new products;

''(C) implementing inspection and postmarket monitoring provisions of this Act;

''(D) ensuring access to the scientific and technical expertise needed by the Secretary to meet obligations described in paragraph (1);

''(E) establishing mechanisms, by July 1, 1999, for meeting the time periods specified in this Act for the review of all applications and submissions described in subparagraph (A) and submitted after the date of enactment of the Food and Drug Administration Modernization Act of 1997; and

''(F) eliminating backlogs in the review of applications and submissions described in subparagraph (A), by January 1, 2000.

''(g) ANNUAL REPORT.—The Secretary shall annually prepare and publish in the Federal Register and solicit public comment on a report that—

''(1) provides detailed statistical information on the performance of the Secretary under the plan described in subsection (f);

''(2) compares such performance of the Secretary with the objectives of the plan and with the statutory obligations of the Secretary; and

''(3) identifies any regulatory policy that has a significant negative impact on compliance with any objective of the plan or any statutory obligation and sets forth any proposed revision to any such regulatory policy.''.

SEC. 407. INFORMATION SYSTEM.

(a) AMENDMENT.—Chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

''SUBCHAPTER D—INFORMATION AND EDUCATION

''SEC. 741. INFORMATION SYSTEM.

''The Secretary shall establish and maintain an information system to track the status and progress of each application or submission (including a petition, notification, or other similar form of request) submitted to the Food and Drug Administration requesting agency action.''.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives on the status of the system to be established under the amendment made by subsection (a), including the projected costs of the system and concerns about confidentiality.

SEC. 408. EDUCATION AND TRAINING.

(a) FOOD AND DRUG ADMINISTRATION.—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 407, is further amended by adding at the end the following section:

''SEC. 742. EDUCATION.

''(a) IN GENERAL.—The Secretary shall conduct training and education programs for the employees of the Food and Drug Administration relating to the regulatory responsibilities and policies established by this Act, including programs for—

''(1) scientific training;

''(2) training to improve the skill of officers and employees authorized to conduct inspections under section 704;

''(3) training to achieve product specialization in such inspections; and

''(4) training in administrative process and procedure and integrity issues.

''(b) INTRAMURAL FELLOWSHIPS AND OTHER TRAINING PROGRAMS.—The Secretary, acting through the Commissioner, may, through fellowships and other training programs, conduct and support intramural research training for predoctoral and postdoctoral scientists and physicians.''.

(b) CENTERS FOR DISEASE CONTROL AND PREVENTION.—

(1) IN GENERAL.—Part B of title III of the Public Health Service Act is amended by inserting after section 317F (42 U.S.C. 247b–7) the following:

''SEC. 317G. FELLOWSHIP AND TRAINING PROGRAMS.

''The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish fellowship and training programs to be conducted by such Centers to train individuals to develop skills in epidemiology, surveillance, laboratory analysis, and other disease detection and prevention methods. Such programs shall be designed to enable health professionals and health personnel trained under such programs to work, after receiving such training, in local, State, national, and international efforts toward the prevention and control of diseases, injuries, and disabilities. Such fellowships and training may be administered through the use of either appointment or nonappointment procedures.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection is deemed to have taken effect July 1, 1995.

SEC. 409. CENTERS FOR EDUCATION AND RESEARCH ON THERAPEUTICS.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end of part A the following new section:

''SEC. 905. DEMONSTRATION PROGRAM REGARDING CENTERS FOR EDUCATION AND RESEARCH ON THERAPEUTICS.

''(a) IN GENERAL.—The Secretary, acting through the Administrator and in consultation with the Commissioner of Food and Drugs, shall establish a demonstration program for the purpose of making one or more grants for the establishment and operation of one or more centers to carry out the activities specified in subsection (b).

''(b) REQUIRED ACTIVITIES.—The activities referred to in subsection (a) are the following:

''(1) The conduct of state-of-the-art clinical and laboratory research for the following purposes:

''(A) To increase awareness of—

''(i) new uses of drugs, biological products, and devices;

''(ii) ways to improve the effective use of drugs, biological products, and devices; and

''(iii) risks of new uses and risks of combinations of drugs and biological products.

''(B) To provide objective clinical information to the following individuals and entities:

''(i) Health care practitioners or other providers of health care goods or services.

''(ii) Pharmacy benefit managers.

''(iii) Health maintenance organizations or other managed health care organizations.

''(iv) Health care insurers or governmental agencies.

''(v) Consumers.

''(C) To improve the quality of health care while reducing the cost of health care through—

''(i) the appropriate use of drugs, biological products, or devices; and

''(ii) the prevention of adverse effects of drugs, biological products, and devices and the consequences of such effects, such as unnecessary hospitalizations.

''(2) The conduct of research on the comparative effectiveness and safety of drugs, biological products, and devices.

''(3) Such other activities as the Secretary determines to be appropriate, except that the grant may not be expended to assist the Secretary in the review of new drugs.

''(c) APPLICATION FOR GRANT.—A grant under subsection (a) may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

''(d) PEER REVIEW.—A grant under subsection (a) may be made only if the application for the grant has undergone appropriate technical and scientific peer review.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for fiscal year 1998, and $3,000,000 for each of fiscal years 1999 through 2002.''.

SEC. 410. MUTUAL RECOGNITION AGREEMENTS AND GLOBAL HARMONIZATION.

(a) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—Section 520(f)(1)(B) (21 U.S.C. 360j(f)(1)(B)) is amended—

(1) in clause (i), by striking '', and'' at the end and inserting a semicolon;

(2) in clause (ii), by striking the period and inserting ''; and''; and

(3) by inserting after clause (ii) the following:

''(iii) ensure that such regulation conforms, to the extent practicable, with internationally recognized standards defining quality systems, or parts of the standards, for medical devices.''.

(b) HARMONIZATION EFFORTS.—Section 803 (21 U.S.C. 383) is amended by adding at the end the following:

''(c)(1) The Secretary shall support the Office of the United States Trade Representative, in consultation with the Secretary of Commerce, in meetings with representatives of other countries to discuss methods and approaches to reduce the burden of regulation and harmonize regulatory requirements if the Secretary determines that such harmonization continues consumer protections consistent with the purposes of this Act.

''(2) The Secretary shall support the Office of the United States Trade Representative, in consultation with the Secretary of Commerce, in efforts to move toward the acceptance of mutual recognition agreements relating to the regulation of drugs, biological products, devices, foods, food additives, and color additives, and the regulation of good manufacturing practices, between the European Union and the United States.

''(3) The Secretary shall regularly participate in meetings with representatives of other foreign governments to discuss and reach agreement on

methods and approaches to harmonize regulatory requirements.

''(4) The Secretary shall, not later than 180 days after the date of enactment of the Food and Drug Administration Modernization Act of 1997, make public a plan that establishes a framework for achieving mutual recognition of good manufacturing practices inspections.

''(5) Paragraphs (1) through (4) shall not apply with respect to products defined in section 201(ff).''.

SEC. 411. ENVIRONMENTAL IMPACT REVIEW.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 407, is further amended by adding at the end the following:

''SUBCHAPTER E—ENVIRONMENTAL IMPACT REVIEW

''SEC. 746. ENVIRONMENTAL IMPACT.

''Notwithstanding any other provision of law, an environmental impact statement prepared in accordance with the regulations published in part 25 of title 21, Code of Federal Regulations (as in effect on August 31, 1997) in connection with an action carried out under (or a recommendation or report relating to) this Act, shall be considered to meet the requirements for a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).''.

SEC. 412. NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS AND COSMETICS.

(a) NONPRESCRIPTION DRUGS.—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 411, is further amended by adding at the end the following:

''SUBCHAPTER F—NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS AND PREEMPTION FOR LABELING OR PACKAGING OF COSMETICS

''SEC. 751. NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS.

''(a) IN GENERAL.—Except as provided in subsection (b), (c)(1), (d), (e), or (f), no State or political subdivision of a State may establish or continue in effect any requirement—

''(1) that relates to the regulation of a drug that is not subject to the requirements of section 503(b)(1) or 503(f)(1)(A); and

''(2) that is different from or in addition to, or that is otherwise not identical with, a requirement under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

''(b) EXEMPTION.—

''(1) IN GENERAL.—Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement that—

''(A) protects an important public interest that would otherwise be unprotected, including the health and safety of children;

''(B) would not cause any drug to be in violation of any applicable requirement or prohibition under Federal law; and

''(C) would not unduly burden interstate commerce.

''(2) TIMELY ACTION.—The Secretary shall make a decision on the exemption of a State or political subdivision requirement under paragraph (1) not later than 120 days after receiving the application of the State or political subdivision under paragraph (1).

''(c) SCOPE.—

''(1) IN GENERAL.—This section shall not apply to—

''(A) any State or political subdivision requirement that relates to the practice of pharmacy; or

''(B) any State or political subdivision requirement that a drug be dispensed only upon the prescription of a practitioner licensed by law to administer such drug.

''(2) SAFETY OR EFFECTIVENESS.—For purposes of subsection (a), a requirement that relates to the regulation of a drug shall be deemed to include any requirement relating to public information or any other form of public communication relating to a warning of any kind for a drug.

''(d) EXCEPTIONS.—

''(1) IN GENERAL.—In the case of a drug described in subsection (a)(1) that is not the subject of an application approved under section 505 or section 507 (as in effect on the day before the date of enactment of the Food and Drug Administration Modernization Act of 1997) or a final regulation promulgated by the Secretary establishing conditions under which the drug is generally recognized as safe and effective and not misbranded, subsection (a) shall apply only with respect to a requirement of a State or political subdivision of a State that relates to the same subject as, but is different from or in addition to, or that is otherwise not identical with—

''(A) a regulation in effect with respect to the drug pursuant to a statute described in subsection (a)(2); or

''(B) any other requirement in effect with respect to the drug pursuant to an amendment to such a statute made on or after the date of enactment of the Food and Drug Administration Modernization Act of 1997.

''(2) STATE INITIATIVES.—This section shall not apply to a State requirement adopted by a State public initiative or referendum enacted prior to September 1, 1997.

''(e) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

''(f) STATE ENFORCEMENT AUTHORITY.—Nothing in this section shall prevent a State or political subdivision thereof from enforcing, under any relevant civil or other enforcement authority, a requirement that is identical to a requirement of this Act.''.

(b) INSPECTIONS.—Section 704(a)(1) (21 U.S.C. 374(a)(1)) is amended by striking ''prescription drugs'' each place it appears and inserting ''prescription drugs, nonprescription drugs intended for human use,''.

(c) MISBRANDING.—Subparagraph (1) of section 502(e) (21 U.S.C. 352(e)(1)) is amended to read as follows:

''(1)(A) If it is a drug, unless its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula)—

''(i) the established name (as defined in subparagraph (3)) of the drug, if there is such a name;

''(ii) the established name and quantity or, if determined to be appropriate by the Secretary, the proportion of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including whether active or not the established name and quantity or if determined to be appropriate by the Secretary, the proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein, except that the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this subclause, shall not apply to nonprescription drugs not intended for human use; and

''(iii) the established name of each inactive ingredient listed in alphabetical order on the outside container of the retail package and, if determined to be appropriate by the Secretary, on the immediate container, as prescribed in regulation promulgated by the Secretary, except that nothing in this subclause shall be deemed to require that any trade secret be divulged, and except that the requirements of this subclause with respect to alphabetical order shall apply only to nonprescription drugs that are not also cosmetics and that this subclause shall not apply to nonprescription drugs not intended for human use.

''(B) For any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) shall be printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient, except that to the extent that compliance with the requirements of subclause (ii) or (iii) of clause (A) or this clause is impracticable, exemptions shall be established by regulations promulgated by the Secretary.''.

(d) COSMETICS.—Subchapter F of chapter VII, as amended by subsection (a), is further amended by adding at the end the following:

''SEC. 752. PREEMPTION FOR LABELING OR PACKAGING OF COSMETICS.

''(a) IN GENERAL.—Except as provided in subsection (b), (d), or (e), no State or political subdivision of a State may establish or continue in effect any requirement for labeling or packaging of a cosmetic that is different from or in addition to, or that is otherwise not identical with, a requirement specifically applicable to a particular cosmetic or class of cosmetics under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

''(b) EXEMPTION.—Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement for labeling or packaging that—

''(1) protects an important public interest that would otherwise be unprotected;

''(2) would not cause a cosmetic to be in violation of any applicable requirement or prohibition under Federal law; and

''(3) would not unduly burden interstate commerce.

''(c) SCOPE.—For purposes of subsection (a), a reference to a State requirement that relates to the packaging or labeling of a cosmetic means any specific requirement relating to the same aspect of such cosmetic as a requirement specifically applicable to that particular cosmetic or class of cosmetics under this Act for packaging or labeling, including any State requirement relating to public information or any other form of public communication.

''(d) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

''(e) STATE INITIATIVE.—This section shall not apply to a State requirement adopted by a State public initiative or referendum enacted prior to September 1, 1997.''.

SEC. 413. FOOD AND DRUG ADMINISTRATION STUDY OF MERCURY COMPOUNDS IN DRUGS AND FOOD.

(a) LIST AND ANALYSIS.—The Secretary of Health and Human Services shall, acting through the Food and Drug Administration—

(1) compile a list of drugs and foods that contain intentionally introduced mercury compounds, and

(2) provide a quantitative and qualitative analysis of the mercury compounds in the list under paragraph (1).

The Secretary shall compile the list required by paragraph (1) within 2 years after the date of enactment of the Food and Drug Administration Modernization Act of 1997 and shall provide the analysis required by paragraph (2) within 2 years after such date of enactment.

(b) STUDY.—The Secretary of Health and Human Services, acting through the Food and

Drug Administration, shall conduct a study of the effect on humans of the use of mercury compounds in nasal sprays. Such study shall include data from other studies that have been made of such use.

(c) STUDY OF MERCURY SALES.—

(1) STUDY.—The Secretary of Health and Human Services, acting through the Food and Drug Administration and subject to appropriations, shall conduct, or shall contract with the Institute of Medicine of the National Academy of Sciences to conduct, a study of the effect on humans of the use of elemental, organic, or inorganic mercury when offered for sale as a drug or dietary supplement. Such study shall, among other things, evaluate—

(A) the scope of mercury use as a drug or dietary supplement; and

(B) the adverse effects on health of children and other sensitive populations resulting from exposure to, or ingestion or inhalation of, mercury when so used.

In conducting such study, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Chair of the Consumer Product Safety Commission, and the Administrator of the Agency for Toxic Substances and Disease Registry, and, to the extent the Secretary believes necessary or appropriate, with any other Federal or private entity.

(2) REGULATIONS.—If, in the opinion of the Secretary, the use of elemental, organic, or inorganic mercury offered for sale as a drug or dietary supplement poses a threat to human health, the Secretary shall promulgate regulations restricting the sale of mercury intended for such use. At a minimum, such regulations shall be designed to protect the health of children and other sensitive populations from adverse effects resulting from exposure to, or ingestion or inhalation of, mercury. Such regulations, to the extent feasible, should not unnecessarily interfere with the availability of mercury for use in religious ceremonies.

SEC. 414. INTERAGENCY COLLABORATION.

Section 903 (21 U.S.C. 393), as amended by section 406, is further amended by inserting after subsection (b) the following:

''(c) INTERAGENCY COLLABORATION.—The Secretary shall implement programs and policies that will foster collaboration between the Administration, the National Institutes of Health, and other science-based Federal agencies, to enhance the scientific and technical expertise available to the Secretary in the conduct of the duties of the Secretary with respect to the development, clinical investigation, evaluation, and postmarket monitoring of emerging medical therapies, including complementary therapies, and advances in nutrition and food science.''.

SEC. 415. CONTRACTS FOR EXPERT REVIEW.

Chapter IX (21 U.S.C. 391 et seq.), as amended by section 214, is further amended by adding at the end the following:

''SEC. 907. CONTRACTS FOR EXPERT REVIEW.

''(a) IN GENERAL.—

''(1) AUTHORITY.—The Secretary may enter into a contract with any organization or any individual (who is not an employee of the Department) with relevant expertise, to review and evaluate, for the purpose of making recommendations to the Secretary on, part or all of any application or submission (including a petition, notification, and any other similar form of request) made under this Act for the approval or classification of an article or made under section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) with respect to a biological product. Any such contract shall be subject to the requirements of section 708 relating to the confidentiality of information.

''(2) INCREASED EFFICIENCY AND EXPERTISE THROUGH CONTRACTS.—The Secretary may use the authority granted in paragraph (1) whenever the Secretary determines that use of a contract described in paragraph (1) will improve the timeliness of the review of an application or submission described in paragraph (1), unless using such authority would reduce the quality, or unduly increase the cost, of such review. The Secretary may use such authority whenever the Secretary determines that use of such a contract will improve the quality of the review of an application or submission described in paragraph (1), unless using such authority would unduly increase the cost of such review. Such improvement in timeliness or quality may include providing the Secretary increased scientific or technical expertise that is necessary to review or evaluate new therapies and technologies.

''(b) REVIEW OF EXPERT REVIEW.—

''(1) IN GENERAL.—Subject to paragraph (2), the official of the Food and Drug Administration responsible for any matter for which expert review is used pursuant to subsection (a) shall review the recommendations of the organization or individual who conducted the expert review and shall make a final decision regarding the matter in a timely manner.

''(2) LIMITATION.—A final decision by the Secretary on any such application or submission shall be made within the applicable prescribed time period for review of the matter as set forth in this Act or in the Public Health Service Act (42 U.S.C. 201 et seq.).''.

SEC. 416. PRODUCT CLASSIFICATION.

Subchapter E of chapter V, as amended by section 404, is further amended by adding at the end the following:

''SEC. 563. CLASSIFICATION OF PRODUCTS.

''(a) REQUEST.—A person who submits an application or submission (including a petition, notification, and any other similar form of request) under this Act for a product, may submit a request to the Secretary respecting the classification of the product as a drug, biological product, device, or a combination product subject to section 503(g) or respecting the component of the Food and Drug Administration that will regulate the product. In submitting the request, the person shall recommend a classification for the product, or a component to regulate the product, as appropriate.

''(b) STATEMENT.—Not later than 60 days after the receipt of the request described in subsection (a), the Secretary shall determine the classification of the product under subsection (a), or the component of the Food and Drug Administration that will regulate the product, and shall provide to the person a written statement that identifies such classification or such component, and the reasons for such determination. The Secretary may not modify such statement except with the written consent of the person, or for public health reasons based on scientific evidence.

''(c) INACTION OF SECRETARY.—If the Secretary does not provide the statement within the 60-day period described in subsection (b), the recommendation made by the person under subsection (a) shall be considered to be a final determination by the Secretary of such classification of the product, or the component of the Food and Drug Administration that will regulate the product, as applicable, and may not be modified by the Secretary except with the written consent of the person, or for public health reasons based on scientific evidence.''.

SEC. 417. REGISTRATION OF FOREIGN ESTABLISHMENTS.

Section 510(i) (21 U.S.C. 360(i)) is amended to read as follows:

''(i)(1) Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or a device that is imported or offered for import into the United States shall register with the Secretary the name and place of business of the establishment and the name of the United States agent for the establishment.

''(2) The establishment shall also provide the information required by subsection (j).

''(3) The Secretary is authorized to enter into cooperative arrangements with officials of foreign countries to ensure that adequate and effective means are available for purposes of determining, from time to time, whether drugs or devices manufactured, prepared, propagated, compounded, or processed by an establishment described in paragraph (1), if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).''.

SEC. 418. CLARIFICATION OF SEIZURE AUTHORITY.

Section 304(d)(1) (21 U.S.C. 334(d)(1)) is amended—

(1) in the fifth sentence, by striking ''paragraphs (1) and (2) of section 801(e)'' and inserting ''subparagraphs (A) and (B) of section 801(e)(1)''; and

(2) by inserting after the fifth sentence the following: ''Any person seeking to export an imported article pursuant to any of the provisions of this subsection shall establish that the article was intended for export at the time the article entered commerce.''.

SEC. 419. INTERSTATE COMMERCE.

Section 709 (21 U.S.C. 379a) is amended by striking ''a device'' and inserting ''a device, food, drug, or cosmetic''.

SEC. 420. SAFETY REPORT DISCLAIMERS.

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 412, is further amended by adding at the end the following:

''SUBCHAPTER G—SAFETY REPORTS

''SEC. 756. SAFETY REPORT DISCLAIMERS.

''With respect to any entity that submits or is required to submit a safety report or other information in connection with the safety of a product (including a product that is a food, drug, device, dietary supplement, or cosmetic) under this Act (and any release by the Secretary of that report or information), such report or information shall not be construed to reflect necessarily a conclusion by the entity or the Secretary that the report or information constitutes an admission that the product involved malfunctioned, caused or contributed to an adverse experience, or otherwise caused or contributed to a death, serious injury, or serious illness. Such an entity need not admit, and may deny, that the report or information submitted by the entity constitutes an admission that the product involved malfunctioned, caused or contributed to an adverse experience, or caused or contributed to a death, serious injury, or serious illness.''.

SEC. 421. LABELING AND ADVERTISING REGARDING COMPLIANCE WITH STATUTORY REQUIREMENTS.

Section 301 (21 U.S.C. 331) is amended by striking paragraph (l).

SEC. 422. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to affect the question of whether the Secretary of Health and Human Services has any authority to regulate any tobacco product, tobacco ingredient, or tobacco additive. Such authority, if any, shall be exercised under the Federal Food, Drug, and Cosmetic Act as in effect on the day before the date of the enactment of this Act.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act, other than the provisions of and the amendments made by sections 111, 121, 125, and 307, shall take effect 90 days after the date of enactment of this Act.

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

TOM BLILEY,
MICHAEL BILIRAKIS,
JOE BARTON,

JAMES GREENWOOD,
RICHARD BURR,
ED WHITFIELD,
JOHN D. DINGELL,
SHERROD BROWN,
HENRY A. WAXMAN,
RON KLINK,
Managers of the Part of the House.

JIM JEFFORDS,
DAN COATS,
JUDD GREGG,
BILL FRIST,
MIKE DEWINE,
EDWARD M. KENNEDY,
CHRISTOPHER DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 830) 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, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The conference agreement on S. 830, the Food and Drug Administration Modernization Act of 1997, provides for (1) the reauthorization of the Prescription Drug User Fee Act of 1992; (2) the improvement of regulation of drugs through such reforms as those pertaining to pediatric studies of drugs, procedures relating to fast track drugs, health care economic information, national uniformity for over-the-counter drugs and cosmetics, and data requirements for drugs and biological products; (3) the improvement of regulation of medical devices through such reforms as those pertaining to device standards and data requirements, procedures relating to humanitarian and breakthrough devices, tracking and postmarket surveillance, and accredited party review; (4) the improvement of regulation of food through such reforms as those pertaining to the timetable and regulatory authority of the Secretary in processing health and nutrient content claims, food contact substance notifications, and information relating to irradiation treatment; and (5) general provisions pertaining to the dissemination of information, expanded access to investigational therapies, and consumer access to information about clinical trials of investigational therapies.

Certain matters agreed to in conference are noted below:

TITLE I—IMPROVING REGULATION OF DRUGS

Prescription Drug User Fee Act (Subtitle A)

The conferees believe it is important to place the PDUFA reauthorization provisions of the Act in the overall context of the budgetary agreements which have been put into place by the 1997 Balanced Budget Agreements (BBA). This Act preserves the original PDUFA adjustment factor and therefore the basic understanding behind the 1992 enactment of this provision: that is, the industry willingness to pay user fees for enhanced performance in the drug approval process. Nevertheless the conferees acknowledge that the 1997 BBA places tight constraints on the appropriations process, particularly in the out years. The conferees expect the appropriators will make every effort to meet the trigger so that FDA is allowed to collect and expend user fees. However, it must be acknowledged that particularly in the fifth year of BBA, budgetary pressures on all discretionary spending will be great.

Breakdowns of the actual spending levels at FDA have not traditionally been provided to the appropriators, making it difficult to conduct oversight. Beginning in Fiscal Year 1998, appropriators will require FDA to submit a directed operating budget as part of the annual budget request. This will serve as a functional breakdown of how appropriated dollars are spent, similar to the report FDA submits annually to show how the agency spent collected PDUFA user fees.

The conferees expect the President's budgetary request for FDA for salaries and expenses to meet the PDUFA levels specified for each of these years and not be based on any assumption of the enactment of new substitutive user fees on other FDA regulated industries.

Pediatric studies of drugs (Sec. 111)

The conference agreement provides that if the Secretary determines that information about a drug may produce health benefits in a pediatric population and makes a written request for pediatric studies (including a time frame for completing the studies), and the studies are completed and are accepted by the Secretary, then the sponsor or manufacturer will qualify for 6 months of extra market exclusivity. The agreement authorizes the Secretary to determine the time frame for completing the studies, but the conferees emphasize that such studies should be sought, conducted, and completed at the earliest possible opportunity. The conferees do not intend that such studies be artificially timed for market advantage.

The agreement provides that no new market exclusivity may be applied to any new drug for which a new drug application is submitted after January 1, 2002. However, the agreement provides a continuation of the program for certain drugs already on the market on the date of enactment. The purpose of this limited extension is to ensure that, with respect to such already marketed drugs, exclusivity remains available if the Secretary determines there is a continuing need for additional information relating to the use of such drugs that may promote health benefits in the pediatric population. This is applicable only to drugs already included on the list under subsection (b) as of January 1, 2002. The Secretary will not list any additional drugs under Section 505A(b) after January 1, 2002. These drugs will be eligible for the applicable 6-month time extension if the requested studies satisfy all requirements of the section.

The conferees expect the Secretary to consult with experts in pediatric research to develop the list of drugs under subsection (b), and to set priorities for studies on these drugs. Such experts should include representatives from the American Academy of Pediatrics, the Pediatric Pharmacology Research Unit (PPRU) Network, and the U.S. Pharmacopeia. The conferees note particularly the excellent efforts of NIH, especially through the PPRU Network, which will contribute significantly to this effort.

The conference agreement also requires that a study be conducted on the program, by January 1, 2001, that reviews all aspects of the program, including its impact on the price and availability of drugs and the availability of generic drugs.

With respect to any requested studies under this provision, the conferees intend that data collected prior to a request or requirement by the Secretary may be used, in addition to data collected after such request or requirement in satisfying the provisions of this section.

Clinical investigations (Sec. 115)

The conferees note that the requirement for the Secretary to review existing guidance and develop additional guidance, as appropriate, on the inclusion of women and minorities in clinical trials does not require participation of women and minorities in any particular trial. Furthermore, FDA is required to consult with the National Institutes of Health, which has developed inclusion guidelines for subjects in federally funded clinical research, and with representatives of the drug manufacturing industry, to ensure that ethical, scientific, and legal issues specific to privately funded clinical research are considered. The conferees expect FDA to set forth its general policy regarding: the inclusion of women and minorities in drug development research; population-specific analyses of clinical data and assessment of potential pharmacokinetic differences; and the conduct of specific additional studies in women or minorities, where appropriate.

Content and review of applications (Sec. 119)

The Secretary is required to meet with an applicant if the applicant makes a reasonable written request for a meeting for the purpose of reaching agreement on the design and size of studies, if the sponsor provides the information necessary to discuss and reach agreement on the design and size of such studies. The Secretary may refuse to meet if the sponsor does not provide such information or if the Secretary determines that such meeting is premature or would not be useful.

Positron emission tomography (Sec. 121)

The conference agreement provides for regulation of positron emission tomography (PET) drugs and replaces earlier industry guidance and regulatory standards for PET products promulgated by the FDA. The agreement provides that, until the Secretary establishes procedures under subsection (c)(1) described below, neither a New Drug Application (NDA) nor an Abbreviated New Drug Application (ANDA) is required by a licensed practitioner to produce a compounded PET product in accordance with United States Pharmacopiea (USP) standards.

The agreement requires the Secretary, in two years to establish procedures for approving PET products, including compounded PET products, and good manufacturing practices for such products, taking account of relevant differences between commercial manufacturers and non-profit organizations and in consultation with patient groups, physicians, and others. The Secretary may not require NDAs or ANDAs for these products for four years (or two years after the procedures mentioned above are established).

A compounded PET drug, by definition, must be compounded pursuant to a valid prescription order and in accordance with state law, among other requirements. A PET drug that fails to meet these requirements is not a ''compounded PET drug'' and therefore is not exempt from section 501(a)(2)(B) (21 USC 351(a)(2)(B)) or from subsections (b) and (j) of section 505 (21 USC 355). PET drugs that fail to meet the definition of a ''compounded PET drug'' shall be subject to the procedures and requirements established by the Secretary under subsection (c)(1).

Application of Federal law to practice of pharmacy compounding (Sec. 127)

The conference report includes provisions on pharmacy compounding that reflect the conferees' extensive work with the Food and Drug Administration and other interested parties to reach consensus. It is the intent of the conferees to ensure continued availability of compounded drug products as a component of individualized therapy, while limiting the scope of compounding so as to prevent manufacturing under the guise of compounding. Section 503A establishes parameters under which compounding is appropriate and lawful. The conditions set forth in Section 503A should be used by the state boards of pharmacy and medicine for proper regulation of pharmacy compounding in addition to existing state-specific regulations.

The conferees intend that, as defined in subparagraph (b)(2), copies of commercially available drug products do not include drug products in which the change from the commercially available drug product produces a ''significant difference'' for the particular patient. For example, the removal of a dye from a commercially available drug product for a particular patient who is allergic to such dye shall be presumed to be a ''significant difference.'' The conferees expect that FDA and the courts will accord great deference to the licensed prescriber's judgement in determining whether the change produces a ''significant difference.'' However, where it is readily apparent, based on the circumstances, the ''significant difference'' is a mere pretext to allow compounding of products that are essentially copies of commercially available products, such compounding would be considered copying of commercially available products and would not qualify for the compounding exemptions if it is done regularly or in inordinate amounts. Such circumstances may include, for example, instances in which minor changes in strength (such as from .08% to .09% are made that are not known to be significant or instances in which the prescribing physician is receiving financial remuneration or other financial incentives to write prescription for compounded products.

The conferees also expect that the Secretary will develop the list of bulk drug substances described in subsection (b)(1)(A)(i)(III) within one year from the date of enactment. It is the intent of the conferees that the criteria used to develop the list of bulk drug substances and the list itself are to be developed in consultation with the United States Pharmacopoeia. The conferees further intend that where evidence relating to an approval under Section 505 does not exist, the Secretary shall consider other criteria. Finally, the conferees intend that after this list is published, organizations may petition the FDA for inclusion of additional substances on the aforementioned list.

The memorandum of understanding described in Paragraph (b)(3)(B)(i) shall provide guidance on the meaning of inordinate amounts, including any circumstances under which the compounding of drug products for interstate shipment in excess of 5 percent of total prescription order would be included in a ''safe harbor'' of interstate shipments of compounded products that shall not be deemed inordinate.

As stated in paragraph (e), nothing in Section 503A is intended to change or otherwise affect current law with respect to radiopharmaceuticals, including PET drugs. Further, as stated in paragraph (f), the term compounding does not include mixing reconstituting or other such acts that are performed in accordance with directions contained in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with that labeling. Nothing in this provision is intended to change or otherwise affect the Act with respect to reconstitution or other similar processing that is done pursuant to a manufacturer's approved labeling, and other directions from such manufacturer that are consistent with that labeling. In general, such practices, as performed by a licensed practitioner for an identified individual patient, are appropriately regulated by state boards of pharmacy. The conferees intend that facilities required to register with the FDA, including those which are engaged in non-patient specific compounding and reconstitution activities, are appropriately regulated under the Federal Food, Drug and Cosmetic Act.

Finally, with regard to the effective date described in paragraph (b), the conferees expect the FDA to work diligently to consult with necessary parties to promulgate the required regulations and lists. Nothing in paragraph (b) is intended to abrogate the Secretary's responsibility to promulgate such regulations through the notice and comment rulemaking process.

Reauthorization of the Clinical Pharmacology Program (Sec. 128)

The conference agreement extends through fiscal year 2002 the authorization of appropriations of the Clinical Pharmacology Training Program, a program originally authorized under section 2(b) of P.L. 102–222. Nothing in this section of the agreement prohibits the Secretary from continuing the awarding of grants to the original and current grantees. The conferees strongly recommend that the Secretary continue the development of the clinical pharmacology programs at the colleges and universities originally selected to participate in the program.

Regulations for sunscreen products (Sec. 129)

The conference agreement includes a provision requiring FDA to continue diligently with its work to complete its rulemaking process on sunscreen products and to issue regulations within 18 months. The conferees recognize that various technical and scientific issues may take longer to resolve than other aspects of the rulemaking. The conferees do not intend that all regulation in this area be complete or comprehensive by a specified date.

TITLE II—IMPROVING REGULATION OF DEVICES

Scope of review (Sec. 205)

The conference agreement addresses the issue of regulatory burden by ensuring that the impact of the Secretary's necessary review, approval, and oversight functions is not inappropriate. This assurance is achieved by requiring the Secretary to consider, in consultation with an applicant for device approval, the method for evaluating the device's effectiveness that would be appropriate, least burdensome, and reasonably likely to result in the device's approval. The conferees believe that this language is necessary to and consistent with improving communications between the FDA and regulated persons, increasing regulatory efficiency, and decreasing the length of product review and approval.

Premature notification (Sec. 206)

The conference agreement exempts class I devices from premarket notification under section 510(k), except those types that present a potential unreasonable risk of illness or injury, or that are of substantial importance in preventing impairment of human health. The agreement also requires the Secretary to publish a notice listing the types of class II devices that are exempt from premarket notification. The Secretary must publish this initial list within 60 days. Thereafter, class II devices may be exempted by the Secretary on the Secretary's own initiative or through a petition process. the agreement provides that the Secretary must respond to any such petition within 180 days or the petition will be deemed granted.

The conferees do not intend by this provision that the Secretary should up-classify low-risk class I device in order to avoid exempting them. The conferees believe the appropriate exemption of class I and certain class II devices will allow the Secretary to expend limited premarket review resources on potentially risky and technologically advanced devices. Focusing resources in this manner will ensure the public continues to be adequately protected and will still benefit from the earlier availability of new products.

Accredited party review (Sec. 210)

The conference agreement makes modifications to the House and Senate provisions establishing the process by which the Secretary will accredit person to review and initially classify 510(k) devices. The agreement's provisions relating to the scope and the duration of the pilot program specify that an accredited person may not review a class III device, a class II device that is permanently implantable, life-sustaining or life-supporting, or a class II device for which clinical data are required. The latter category is limited in size to not more than six percent of all 510(k) submissions. In addition, the agreement provides for the termination of the pilot program after the Secretary has met specified targets for inclusion of eligible devices.

Reports (Sec. 213)

The conference agreement amends Section 519 of the Federal Food, Drug and Cosmetic Act to reduce the reporting requirements for device distributors. Manufacturers and importers, however, are required to comply with the existing requirements for medical device reporting. The amendment to section 519(a)(9) requires distributors to keep records and make them available to the Secretary on request. Because distributors will no longer be submitting reports to the Secretary, copies of reports would also not be sent to the manufacturers. This is not intended to provide the FDA with any new statutory authority to require distributors to keep additional records; it merely clarifies that existing record keeping requirements of section 519(a) continue to apply. This provision also removes the registration, listing, and reporting requirements for distributors under section 510. Since user facilities and manufacturers submit medical device reports to the FDA, there is no need for additional reporting by distributors. The FDA is urged to allow all record keeping, including distributor record keeping, to be accomplished through either electronic means or written documentation. The FDA is also urged to revise its current regulations on distributor record keeping (21 C.F.R. §804.35(b)) to provide that distributors need only keep records of complaints for six years from the date a complaint is received by the distributor, consistent with the longest statutes of limitations under State tort laws. Currently, FDA regulations require distributors to keep records for two years from the date of the record of complaint or the expected life of the device, whichever is greater. It is the intent of the conferees to simplify these requirements, since distributors, unlike manufacturers, are not able to determine the expected life of a device. Since these records will be kept by manufacturers as well, it is unnecessarily burdensome for distributors to keep these records for other than a fixed period of time.

The conferees expect the FDA to modify its regulations under Sec. 519(f) to ensure

that the reports under this section are not required from any manufacturer, importer, or distributor who also is regulated and required to make such reports under the Radiation Control for Health and Safety Act of 1968 (21 U.S.C. 36011).

Practice of medicine (Sec. 214)

The conference agreement includes a provision intended by the conferees to emphasize that the FDA should not interfere in the practice of medicine. Specifically, the conferees note that the off-label use of a medical device by a physician using his or her best medical judgment in determining how and when to use the medical product for the care of a particular patient is not the province of the FDA. It is the intent of the conferees that this provision not be construed to affect medical professional liability.

TITLE III—IMPROVING REGULATION OF FOOD

Flexibility for regulations regarding claims (Sec. 301)

The conference agreement clarifies the parameters within which the Secretary may use the interim final rulemaking authority established under this section. This authority enables the Secretary to make proposed regulations on claims effective upon publication, pending consideration of public comment and publication of a final regulation. The conferees' clarifying language emphasizes that this authority may be used when the Secretary determines that it is necessary to enable the Secretary to improve consumer access to important dietary information and to ban or modify a claim in a prompt fashion. The conferees' intent in creating this expedited rulemaking authority for health and nutrient content claims is that it be used primarily to expedite the review of petitions for health and nutrient content claims based on authoritative statements.

Health and nutrient content claims (Secs. 303, 304)

The conference agreement makes streamlined procedures available for the Secretary to permit more scientifically sound nutrition information to be provided to consumers through health and nutrient content claims. This process is triggered by authoritative statements of entities such as the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC), and the National Academy of Sciences (NAS). Although the provision specifically permits claims to be made on the basis of a statement produced by subsidiaries of NAS, the conferees intend that the lack of similar language with respect to entities such as NIH and CDC be interpreted as a reflection of the desire of the conferees that statements issued by entities such as NIH and CDC reflect consensus within those institutions. The agreement makes minor modifications to the House provisions on health and nutrient content claims to expedite the process by which such claims are processed. As part of the submissions to the Secretary for health claims based on authoritative statements, a balanced representation of the scientific literature may include a bibliography of such literature.

Disclosure of irradiation (Sec. 306)

The conference agreement ensures that no existing provision of the Federal Food Drug and Cosmetic Act will be considered to require a separate radiation disclosure statement that is more prominent than the declaration of ingredients on the food label. To ensure the intended effect of this provision, the conferees direct the Secretary promptly to publish for public comment proposed amendments to current regulations relating to the labeling of foods treated with ionizing radiation. The conferees expect final regulations to be issued not more than 12 months after the date of enactment of this measure. The public comment process should be utilized by the Secretary to provide an opportunity to comment on whether the regulations should be amended to revise the prescribed nomenclature for the labeling of irradiated foods and on whether such labeling requirements should expire at a specified date in the future. The conferees intend for any required disclosure to be of a type and character such that it would not be perceived to be a warning or give rise to inappropriate consumer anxiety.

Food contact substances (Sec. 309)

The conference agreement establishes a notification process for the regulation of components of food packaging, known as food contact substances, which is intended to expedite authorization of the marketing of a food contact substance except where the Secretary determines that submission and review of a food additive petition is necessary to provide adequate determination of safety. The agreement also authorizes appropriations to finance the costs of the new notification process. To protect the Agency from having to reallocate resources within CFSAN to meet the costs of implementation, the agreement provides that implementation is to be triggered only when the FDA receives an appropriation sufficient to fund the program. The conferees strongly encourage the House and Senate to appropriate the funds authorized. The conferees also urge the Committees of jurisdiction, when reauthorizing the notification program, to reevaluate fully its operational effectiveness, the appropriateness of its timeframes, the adequacy of funding, and its protection of the public health.

On the subject of food contact substances, the conferees wish to commend the FDA and the Environmental Protection Agency (EPA) for developing an Administration policy on the question of returning from EPA to FDA regulatory authority over antimicrobials used as food contact substances. This policy addresses the uncertainty unintentionally created by the Food Quality Protection Act of 1996 (FQPA) over the authority for regulating antimicrobials used as food contact substances. Although the legislative language effecting this policy was considered by the conferees to be outside the scope of this conference, the conferees acknowledge the significant need for this change and urge FDA and EPA to continue to work with the Congress to identify and develop an appropriate and expeditious vehicle for action on this matter. In the interim, the conferees urge the agencies not to delay active review of pending petitions and the pursuit of the most immediate means to achieve resolution of this jurisdictional issue.

TITLE IV—GENERAL PROVISIONS

Dissemination of treatment information (Sec. 401)

The conference agreement's inclusion of this section is intended to provide that health care practitioners can obtain important scientific information about uses that are not included in the approved labeling of drugs, biological products, and devices. The conferees also wish to encourage that these new uses be included on the product label. Therefore, the agreement includes strong incentives to conduct the research needed and file a supplemental application for such uses. A manufacturer who seeks to disseminate information about a new use must either certify that it will file a supplemental application or must submit a proposed protocol and schedule for conducting the necessary studies and a certification that a supplemental application will be filed.

Although the conferees intend to ensure that the research is undertaken to get new uses on product labels, the conferees also recognize that there may be limited circumstances when it is appropriate to exempt a manufacturer from the requirement to file a supplemental application. In making the determination of whether to grant an exemption pursuant to subsection (d)(2), the Secretary may consider, among other factors, whether: the new use meets the requirements of section 186(t)(2)(B) of the Social Security Act; a medical specialty society that is represented in or recognized by the Council of Medical Specialty Societies (or is a subspecialty of such society) or is recognized by the American Osteopathic Association, has found that the new use is consistent with sound medical practice; the new use is described in a recommendation or medical practice guideline of a Federal health agency, including the National Institutes of Health, the Agency for Health Care Policy Research and the Centers for Disease Control and Prevention of the Department of Health and Human Services; the new use is described in one of three compedia: The U.S. Pharmacopeia-Drug Information, the American Medical Association Drug Evaluation, or the American Hospital Association Formulary Service Drug Information; the new use involves a combination of products of more than one sponsor of a new drug application, a biological license application, a device premarket notification, or a device premarket approval application; or the patent status of the product.

The conferees recognize that there may be cases where the size of the patient population may be cause for the Secretary to determine that a supplemental application should not be filed. However, this is intended to be the exception, rather than the rule, in the case of populations suffering from orphan or rare disorders. For many years, this Congress has sought to encourage research into orphan diseases and the approval of innovative drugs for their treatment. The Secretary should examine very carefully whether an exemption from filing a supplemental application might hinder such research and recognize the vital importance of encouraging application for new drugs and new drug uses intended to treat rare disorders.

Expanded access to investigational therapies and diagnostics (Sec. 402)

The conference report provides statutory direction to expand access programs and emphasizes that opportunities to participate in expanded access programs are available to every individual with a life-threatening or seriously debilitating illness for which there is not an effective, approved therapy. The conferees note that they purposely used broad language in this section relating to ''serious'' conditions, without attempting to define them, in order to permit wide flexibility in implementation. Illnesses that do not cause death, or imminent death, can nonetheless destroy the lives of both patients and their families. The conferees therefore intend that the seriousness of an illness be given broad consideration, to take into account all of the circumstances involved.

Currently, Federal law allows drug companies to make experimental drugs available, under specific circumstances, to seriously and terminally ill patients. However, companies are often reluctant to do so because they fear that inclusion of data on such very ill patients will jeopardize the approval of their product because these patients' medical progress on any therapy may conflict with or be inconsistent with data from patients in the clinical studies. The conferees request that the FDA evaluate ways to address this problem, particularly for terminal

patients who have failed existing approved therapies.

Information system (Sec. 407)

The conferees intend that the information system shall provide access to the information by the applicant under conditions set by the Secretary, except that access shall not be provided under any particular form of information system to any applicant until appropriate safeguards are in place to ensure that integrity and confidentiality of the information for which access is provided.

Education and training (Sec. 408)

The conference agreement authorizes the Centers of the FDA that conduct intramural research to provide fellowships and training to appropriate undergraduate, pre-doctoral, and/or post-doctoral candidates. In the past, FDA's Centers provided for a limited number of scientific training positions through Full Time Equivalent programs or interagency agreements with other federal agencies which have the statutory authority to hire trainees through third parties. However, many of the benefits of the training program have been reduced because FDA has not had specific direct authority to conduct and support them. In light of the additional overhead costs, reduced training flexibility, increased paperwork, and hiring delays that have resulted, it is increasingly difficult and impractical for FDA to hire trainees as FTE Service Fellows. As a result, the Intramural Research and Training Authority authorized here is intended to provide the FDA the authority to conduct and support directly the selection and training of fellows, allow more efficient use of appropriated funds by reducing overhead and other costs, and permit the training of such candidates as non-FTE positions. The conference agreement also provides similar authority for the Centers for Disease Control and Prevention.

Centers for education and research on therapeutics (Sec. 409)

The conference agreement establishes a demonstration program to conduct research and increase awareness of new products and ways to improve their effective use, and to increase awareness of risks of both new uses and combinations of therapies. In carrying out this demonstration program, the Secretary is directed to act through the Agency for Health Care Policy and Research (AHCPR) in consultation with the FDA Commissioner. The conferees designated AHCPR as the lead agency because of its expertise in the evaluation of the effectiveness of clinical care, its non-regulatory role, and its close working relationship with the health care community in the improvement of the quality of care. Accordingly, this section establishes a new Section 928 in Title IX of the Public Health Service Act, the authorizing statute for AHCPR.

To ensure appropriate coordination and to avoid unnecessary duplication, AHCPR is required to consult closely with the FDA in the development and operation of this demonstration program. The conferees expanded the focus of this demonstration to include ways to improve the effective use of drugs, biological products, and devices as well as risks of new combinations of such products and directed that the clinical information gained in the project would be provided to consumers as well as health care practitioners and insurers. Finally, the conferees direct AHCPR also to consider the appropriate use of products in meeting the purposes of this section.

Environmental impact review (Sec. 411)

The conferees believe that FDA's new procedures implementing the National Environmental Policy Act (NEPA) appropriately eliminate unnecessary paperwork and delays associated with prior agency practices. Section 411 makes clear that an environmental impact statement (EIS) prepared in accordance with those regulations will meet the requirements of NEPA. The conferees do not intend this section to preclude judicial review of EISs. The conferees understand that the FDA may modify its regulations periodically, in consultation with the Council on Environmental Quality and the FDA's authorizing committees, as new circumstances or information warrants.

Because the Clean Air Act authorizes production of limited quantities of Class I and Class II substances for use in medical devices, there will be a continuing, but limited, supply of these substances. The EPA shall not dictate, promote or otherwise encourage a policy preference for disposal by incineration of the contents of metered-dose inhalers, but instead allow such contents to be recaptured, recycled or reused consistent with section 608(a)(3) of the Clean Air Act until such time that Congress conducts oversight hearings into the issue.

National uniformity for nonprescription drugs and cosmetics (Sec. 412)

Confidentiality of OTC company self-audits

Public policy should encourage drug manufacturers to conduct audits of their activities to candidly alert management to potential problems so that they can be addressed quickly and effectively. If FDA were to assert routine access to these audits, it would create serious disincentives to conducting appropriate audits and preparing thorough reports of the results. FDA already has a policy of not ordinarily requesting audit reports, which is set forth in compliance policy guide (#7151.02, Sec. 130.300) that applies to prescription drug firms. It is expected that OTC drug firms would be subject to the same compliance policy guide. Thus, during routine inspections of OTC drug establishments, FDA would not be expected to request or to review or copy reports and records that result from the firm's own audits and inspections of its operations to assure compliance with applicable FDA requirements such as good manufacturing practice (GMP) regulations. FDA would reserve the right to review such audits in certain limited circumstances as outlined in the compliance guide.

OTC and cosmetics inspection

The conferees intend that FDA exercise its new records inspection authority fairly and carefully, especially with regard to inspections at facilities that manufacture products that are both cosmetics and over-the-counter drugs. Cosmetic products that are also OTC drugs will, under the provisions of this bill, benefit from full national uniformity relating to all regulatory requirements, including those associated with ingredients, labeling, and packaging. Therefore, under these provisions, manufacturers of such OTC products will be subject to records inspection by FDA. The conferees want to make clear that any records inspection applies only to those products for which there is full national uniformity. This new records inspection authority applies only to products determined to be over-the-counter drugs. It does not apply to products that are solely cosmetics.

In the case of an inspection at a facility which deals both with cosmetic products that are OTC drugs and those that are not, FDA inspectors do not have access to any records relating to the cosmetic products. Further, the conferees want to make clear that there is no records inspection authority under these provisions for facilities dealing exclusively with cosmetics.

Finally, the conferees expect that FDA will provide sufficient time and guidance to the over-the-counter drug industry prior to initiating any program of records inspection and in the early stages of implementing this new requirement.

Effect of national uniformity on state enforcement ''little FTC'' laws

All states have laws prohibiting false and misleading advertising, modeled on the Federal Trade Commission Act. These laws have been applied to prohibit unsubstantiated claims for nonprescription drugs and cosmetics, and to require corrective advertising. This provision is not intended to preempt the application of these laws under such circumstances.

The Conference Committee intends to make clear that ''Little FTC'' laws, as they have historically been written and applied, are not preempted. The scope of national uniformity is modified to only apply to state requirements that relate to labeling and packaging or, if they go beyond labeling and packaging, to requirements relating to warnings. Thus, advertising issues relating to claims substantiation, fair balance, and misleading or deceptive claims are outside the scope of preemption.

Effect of national uniformity on state food labeling laws

This provision is not intended to pre-empt or prohibit States from regulating the labeling of food which derives from animals treated with non-prescription drugs. Nor are these provisions intended to void State regulations on the use of these drugs.

Product classification (Sec. 416)

Subsections (b) and (c) have been amended to make clear that FDA may only modify product classifications for public health reasons based on scientific information.

TOM BLILEY,
MICHAEL BILIRAKIS,
JOE BARTON,
JAMES GREENWOOD,
RICHARD BURR,
ED WHITFIELD,
JOHN D. DINGELL,
SHERROD BROWN,
HENRY A. WAXMAN,
RON KLINK,
Managers on the Part of the House.

JIM JEFFORDS,
DAN COATS,
JUDD GREGG,
BILL FRIST,
MIKE DEWINE,
EDWARD M. KENNEDY,
CHRISTOPHER DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. YATES (at the request of Mr. GEPHARDT) for November 8 after 12 noon and November 9, on account of personal reasons.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 508. An act to provide for the relief of Mai Hoa ''Jasmin'' Salehi; to the Committee on the Judiciary.

S. 759. An act to amend the State Department Basic Authorities Act of 1956 to require the Secretary of State to submit an annual report to Congress concerning diplomatic immunity; to the Committee on International Relations.

S. 857. An act for the relief of Roma Salobrit; to the Committee on the Judiciary.

S. 1189. An act to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes; to the Committee on the Judiciary.

S. 1304. An act for the relief of Belinda McGregor; to the Committee on the Judiciary.

S. 1487. An act to establish a National Voluntary Mutual Reunion Registry; to the Committee on Ways and Means.

S. 1507. An act to amend the National Defense Authorization Act for Fiscal Year 1998 to make certain technical corrections; to the Committee on National Security.

S. Con. Res. 58. Concurrent resolution expressing the concern of Congress over Russia's newly passed religion law; to the Committee on International Relations.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on the following dates present to the President, for his approval, a bill and a joint resolution of the House of the following titles:

On November 8, 1997:

H.R. 2264. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

On November 9, 1997:

H.J. Res. 104. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1747. An act to amend the John F. Kennedy Center Act to authorize the design and construction of additions to the parking garage and certain site improvements, and for other purposes.

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects with demonstrated expertise in the conservation of Asian elephants.

H.R. 2731. An act for the relief of Roy Desmond Moser.

H.R. 2732. An act for the relief of John Andre Chalot.

H.J. Res. 104. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 813. An act to amend chapter 91 of title 18, United States Code, to provide criminal penalties for theft and willful vandalism at national cemeteries.

S. 1377. An act to amend the act incorporating the American Legion to make a technical correction.

ADJOURNMENT

Mr. SOLOMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 2 minutes a.m.), under its previous order, the House adjourned until Wednesday, November 12, 1997, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5818. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Corn Gluten; Exemption from the Requirement of a Tolerance [OPP–300505A; FRL–5750–3] (RIN: 2070–AB78) received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5819. A letter from the Assistant Secretary (Installations and Environment), Department of the Navy, transmitting notification of intent to study a commercial or industrial type function performed by 45 or more civilian employees for possible outsourcing, pursuant to 10 U.S.C. 2304 nt.; to the Committee on National Security.

5820. A letter from the Assistant Secretary (Reserve Affairs), Department of Defense, transmitting a report on the progress of the study on the means of ensuring uniformity in provision of medical and dental care for members of reserve components, pursuant to Public Law 104—201, section 746(b) (110 Stat. 2602); to the Committee on National Security.

5821. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Reserve Requirements of Depository Institutions [Regulation D; Docket No. R–0980] received October 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5822. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's ''Major'' final rule— Energy Conservation Program for Consumer Products: Final Rule Regarding Energy Conservation Standards for Room Air Conditioners [Docket Nos. EE-RM–90–201 and EE-RM–93–801–RAC] (RIN: 1904–AA38) received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5823. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Florida [FL–70–1–9738a; FRL–5920–3] received November 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5824. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District [CA 034–0048; FRL–5917–5] received November 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5825. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District, Ventura County Air Pollution Control District [CA 083–0053a; FRL–5911–4] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5826. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Michigan: Final Authorization of Revisions to State Hazardous Waste Management Program [FRL–5918–8] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5827. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Ambient Air Quality Surveillance for Lead [AD-FRL–5903–5] (RIN: 2060–AF71) received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5828. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Removal of Requirement in Gasoline Deposit Control Additives Rule Regarding the Identification of the Oxygenate Content of Transferred Gasoline [FRL–5917–9] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5829. A letter from the AMD—Performance Evaluation and RECORDS Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico [ET Docket No. 96–2, RM–8165] received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5830. A letter from the AMD—Performance Evaluation and RECORDS Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 15 of the Commission's Rules to permit operation of biomedical telemetry devices on VHF TV channels 7–13 and on UHF TV channels 14–46 [ET Docket No. 95–177] received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5831. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Secondary Direct Food Additives Permitted in Food for Human Consumption; Milk-Clotting Enzymes [Docket No. 93F–0461] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5832. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on the nondisclosure of safeguards information for the quarter ending September 30, 1997, pursuant to 42 U.S.C. 2167(e); to the Committee on Commerce.

5833. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 98–21), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5834. A letter from the Director, Defense Security Assistance Agency, transmitting

notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Korea for defense articles and services (Transmittal No. 98–20), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5835. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Taipei Economic and Cultural Representative Office (TECRO) in the United States for defense articles and services (Transmittal No. 98–18), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5836. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Taipei Economic and Cultural Representative Office in the United States for defense articles and services (Transmittal No. 98–16), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5837. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Portugal for defense articles and services (Transmittal No. 98–13), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5838. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Portugal for defense articles and services (Transmittal No. 98–11), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5839. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Turkey for defense articles and services (Transmittal No. 98–09), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5840. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98–12), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5841. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98–08), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5842. A letter from the Director, Defense Security Assistance Agency, transmitting a report of enhancement or upgrade of sensitivity of technology or capability for Saudi Arabia (Transmittal No. A–98), pursuant to 22 U.S.C. 2776(b)(5)(A); to the Committee on International Relations.

5843. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Canada (Transmittal No. DTC–69–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5844. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Germany (Transmittal No. DTC–133–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5845. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the United Kingdom (Transmittal No. DTC–132–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5846. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Germany and Sweden (Transmittal No. DTC–112–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5847. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Singapore (Transmittal No. DTC–113–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5848. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Israel (Transmittal No. DTC–97–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5849. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Japan (Transmittal No. DTC–98–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5850. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Kuwait (Transmittal No. DTC–114–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5851. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the United Kingdom (Transmittal No. DTC–117–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5852. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

5853. A letter from the Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List [97–019] received November 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5854. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the FY 1997 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5855. A letter from the Chairman, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the annual report for fiscal year 1997, pursuant to Public Law 104—8; to the Committee on Government Reform and Oversight.

5856. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 1997, through September 30, 1997; and the semiannual management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

5857. A letter from the Director, Federal Mediation and Conciliation Service, transmitting the 1997 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100—504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

5858. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting the 1997 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100—504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

5859. A letter from the President, Institute of American Indian Arts, transmitting the FY 1997 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5860. A letter from the Director, National Gallery of Art, transmitting a consolidated report on audit and investigative coverage required by the Inspector General Act of 1978, as amended, and the Federal Managers' Financial Integrity Act, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

5861. A letter from the Director, Office of Government Ethics, transmitting the 1997 annual consolidated report in compliance with the Inspector General Act Amendments of 1988 and the Federal Managers' Financial Integrity Act, pursuant to Public Law 100—504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

5862. A letter from the Independent Counsel, Office of Independent Counsel, transmitting the 1997 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100—504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

5863. A letter from the Director, The Morris K. Udall Foundation, transmitting the annual report pursuant to the Federal Managers' Financial Integrity Act and the Inspector General Act for the year ending September 30, 1997, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5864. A letter from the Acting Director, The Woodrow Wilson Center, transmitting a consolidated report on audit and investigative coverage required by the Inspector General Act of 1978, as amended, and the Federal Managers' Financial Integrity Act, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

5865. A letter from the President and Chief Executive Officer, United States Enrichment Corporation, transmitting a consolidated report on audit and investigative coverage required by the Inspector General Act of 1978, as amended, and the Federal Managers' Financial Integrity Act covering the year ended September 30, 1997, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5866. A letter from the President, United States Institute of Peace, transmitting the strategic plan for the period FY 1997 through 2002, pursuant to Public Law 103—62; to the Committee on Government Reform and Oversight.

5867. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Patent Preparation

and Issuance [WO–350–1220–00–24 1A] (RIN: 1004–AC–88) received November 4, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5868. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Insurance Coverage Provisions for Observer Contractors under the North Pacific Interim Groundfish Observer Program [Docket No. 960717195–7255–03; I.D. 100897E] (RIN: 0648–AI95) received November 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5869. A letter from the Assistant Secretary for Employment Standards, Department of Labor, transmitting the Department's final rule—Longshore Act Civil Money Penalties Adjustment (RIN: 1215–AB17) received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5870. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting the Administration's final rule—Temporary Exemption from Chemical Registration for Distributors of Pseudoephedrine and Phenylpropanolamine Products [DEA Number 1681] (RIN: 1117–AA46) received November 4, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5871. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Modifications to Michigan's Assumed Program to Administer the Section 404 Permitting Program Resulting from the Reorganization of the Michigan Environmental Agencies [FRL–5918–7] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5872. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Modifications to Michigan's Approved Program to Administer the National Pollutant Discharge Elimination System Permitting Program Resulting from the Reorganization of the Michigan Environmental Agencies [FRL–5918–6] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5873. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule— Grants to States for Construction or Acquisition of State Home Facilities (RIN: 2900–AI84) received November 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5874. A letter from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, transmitting the Bureau's final rule—Mendocino Ridge Viticultural Area (RIN: 1512–AA07) received October 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5875. A letter from the Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's final rule—Unemployment Insurance Program Letter [Nos. 41–97 and 44–97] received November 4, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5876. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Material Limitation on Surviving Spouse's Right to Income [Notice 97–63] received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5877. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Test of Bankruptcy Appeals Process [Announcement 97–111] received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

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. BLILEY: Committee of Conference. Conference report on S. 830. An act 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, and for other purposes (Rept. 105–399). Ordered to be printed.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 319. Resolution providing for consideration of the bill (S. 738) to reform the statutes relating to Amtrak, and for other purposes (Rept. 105–400). Referred to the House Calendar.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

225. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 295 memorializing the Citizens' Committee of the United States Postal Service to consider and recommend to the United States Postal Service Board of Governors the issuance of a commemorative stamp honoring Richard Humphreys, Quaker, goldsmith and philanthropist, on the 160th Anniversary of the founding of Cheyney University of Pennsylvania; to the Committee on Government Reform and Oversight.

226. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution 38 expressing support for a full, fair, and complete investigation of legal and ethical violations during the 1996 campaigns, and memorializing the President and the Congress to condemn all prejudice against Asian and Pacific Islander Americans, and to publicly support political and civic participation by these persons throughout the United States; to the Committee on the Judiciary.

227. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution 32 memorializing the President and Congress of the United States to recognize the sacrifices and services rendered to our country by the Hmong-Lao veterans who served in the special guerrilla units that were allied with, and operating in support of, the military forces of the United States during the Vietnam War by granting those veterans and their families full United States citizenship; to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HORN (for himself, Mrs. MALONEY of New York, Mr. BURTON of Indiana, and Mr. WAXMAN):

H.R. 2977. A bill to amend the Federal Advisory Committee Act to clarify public disclosure requirements that are applicable to the National Academy of Sciences and the National Academy of Public Administration; to the Committee on Government Reform and Oversight.

By Ms. VELAZQUEZ (for herself, Mr. GUTIERREZ, and Mr. SERRANO):

H.R. 2978. A bill to require the Secretary of the Treasury to mint coins in commemoration of all the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict; to the Committee on Banking and Financial Services.

By Mr. THOMAS:

H.R. 2979. A bill to authorize acquisition of certain real property for the Library of Congress, and for other purposes; to the Committee on House Oversight.

By Mr. ALLEN:

H.R. 2980. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce.

By Mr. ALLEN (for himself and Mr. BALDACCI):

H.R. 2981. A bill to amend the Higher Education Act of 1965 relating to financial responsibility for refunds and during provisional certification and change of ownership; to the Committee on Education and the Workforce.

By Mr. GILMAN:

H.R. 2982. A bill to improve the quality of child care provided through Federal facilities and programs, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committees on House Oversight, and the Judiciary, 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. SHERMAN (for himself, Mr. FOX of Pennsylvania, Mr. PALLONE, Mr. VISCLOSKY, Mr. BONIOR, Ms. ESHOO, Mr. KENNEDY of Rhode Island, Mr. ROTHMAN, Mr. ROGAN, Mr. WEYGAND, Mr. RADANOVICH, Mr. MORAN of Virginia, Mr. KENNEDY of Massachusetts, and Mr. MARKEY):

H.R. 2983. A bill to promote long term stability in the Caucasus, deter renewed aggression, and facilitate the peaceful resolution of the Nagorno-Karabagh conflict; to the Committee on International Relations, and in addition to the Committee on 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. BARR of Georgia:

H.R. 2984. A bill to provide an exemption from the Gun-Free School Zones Act of 1990 for conduct that does not violate State or local law; to the Committee on the Judiciary.

By Mr. CARDIN (for himself, Mr. BUNNING of Kentucky, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. STARK, and Mr. WELLER):

H.R. 2985. A bill to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible, deportable, and ineligible for naturalization, to authorize immigration officers to serve process in child support cases on aliens entering the United States, and for other purposes; to the Committee on the Judiciary, and in addition 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. COLLINS:

H.R. 2986. A bill for the relief of the survivors of the 14 members of the Armed Forces and the one United States civilian who were killed on April 14, 1994, when United States fighter aircraft mistakenly shot down 2 helicopters in Iraq; to the Committee on the Judiciary.

By Mr. DAVIS of Virginia (for himself and Mr. KUCINICH):

H.R. 2987. A bill to amend title 5, United States Code, to provide for appropriate overtime pay for National Weather Service forecasters performing essential services during severe weather events, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. DOOLITTLE:

H.R. 2988. A bill to facilitate the operation, maintenance, and upgrade of certain federally owned hydroelectric power generating facilities, to ensure the recovery of costs, and to improve the ability of the Federal Government to coordinate its generating and marketing of electricity with the non-Federalelectric utility industry; to the Committee on Resources, and in addition to the Committees on Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENSIGN:

H.R. 2989. A bill to direct the Secretary of the Interior to convey to the St. Jude's Ranch for Children, Nevada, approximately 40 acres of land in Las Vegas, Nevada, to be used for the development of facilities for the residential care and treatment of adjudicated girls; to the Committee on Resources.

By Mr. ENSIGN (for himself, Mr. RANGEL, Mr. LAZIO of New York, Mr. CHRISTENSEN, Mr. GIBBONS, Ms. LOFGREN, Mr. ENGLISH of Pennsylvania, Mr. BACHUS, Mr. RILEY, Mr. CALLAHAN, Mr. KENNEDY of Massachusetts, Mr. MICA, Mr. EVERETT, Mr. THOMPSON, Mr. HOUGHTON, Mr. WEYGAND, Mr. ADERHOLT, Mr. CARDIN, Mr. HILLIARD, Mr. CRAMER, Ms. DANNER, Ms. PELOSI, Mr. SKELTON, Mr. DIAZ-BALART, Mr. FILNER, Mr. FROST, Mr. CRAPO, Mr. ADAM SMITH of Washington, Mr. REYES, Mr. NEAL of Massachusetts, Ms. WOOLSEY, and Mr. KUCINICH):

H.R. 2990. A bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation; to the Committee on Ways and Means.

By Ms. ESHOO (for herself and Mr. TAUZIN):

H.R. 2991. A bill to enhance electronic commerce by requiring agencies to use digital signatures, which are compatible with standards for such technology used in commerce and industry, to enable persons to submit Federal forms electronically, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRAHAM (for himself, Mr. SAM JOHNSON, Mr. HILLEARY, Mr. INGLIS of South Carolina, Mr. WAMP, Mr. NORWOOD, Mr. BARTLETT of Maryland, Mr. TAYLOR of North Carolina, Mr. STUMP, Mr. HERGER, Mr. MILLER of Florida, Mr. WATTS of Oklahoma, Mr. ISTOOK, Mrs. LINDA SMITH of Washington, Mr. TALENT, Mr. THORNBERRY, Mr. CHABOT, Mr. SPENCE, Mr. SANFORD, Mr. TIAHRT, Mr. KNOLLENBERG, Mrs. MYRICK, Mr. HEFLEY, Mr. SOLOMON, Mr. BARTON of Texas, Mr. PITTS, Ms. DUNN of Washington, Mr. SALMON, Mr. SHADEGG, Mr. LARGENT, Mr. BACHUS, Mr. BALLENGER, Mr. DICKEY, Mr. BLUNT, Mrs. EMERSON, Mr. LAHOOD, Mr. MCKEON, Mr. RADANOVICH, Mr. ROHRABACHER, Mr. COX of California, Mr. SENSENBRENNER, Mr. HUTCHINSON, Mr. HOSTETTLER, Mr. BOB SCHAFFER, Mr. PETERSON of Pennsylvania, Mr. SOUDER, Mr. MCINTOSH, Mr. SESSIONS, Mr. ROYCE, Mr. WELDON of Florida, and Mr. NETHERCUTT):

H.R. 2992. A bill to repeal the Goals 2000: Educate America Act and the National Skill Standards Act of 1994 to allow local areas to develop elementary and secondary education programs that meet their needs; to the Committee on Education and the Workforce.

By Mr. HEFLEY:

H.R. 2993. A bill to provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in National Park System and National Wildlife Refuge System units, and for other purposes; to the Committee on Resources.

By Ms. HOOLEY of Oregon (for herself and Mr. DAVIS of Virginia):

H.R. 2994. A bill to provide for various capital investments in technology education in the United States; to the Committee on Education and the Workforce, and in addition to the Committees on Science, 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.

By Mrs. JOHNSON of Connecticut (for herself and Mrs. LOWEY):

H.R. 2995. A bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations (other than governmental units) a credit against employment taxes in an amount equivalent to the work opportunity credit allowable to taxable employers, and for other purposes; to the Committee on Ways and Means.

By Mr. KENNEDY of Massachusetts:

H.R. 2996. A bill to amend the Securities Exchange Act of 1934 to revise the definition of limited partnership rollup transaction; to the Committee on Commerce.

By Mr. KENNEDY of Massachusetts (for himself, Mr. DELLUMS, Mr. KLECZKA, Mr. LAFALCE, Mr. FILNER, Mr. MCDERMOTT, Mr. BONIOR, Mr. TOWNS, Ms. SLAUGHTER, Mr. LEWIS of Georgia, Mr. JACKSON, Ms. VELAZQUEZ, Mr. MCGOVERN, Mr. BERMAN, Ms. PELOSI, Mr. OLVER, Mr. MARKEY, Mr. WAXMAN, Ms. NORTON, Ms. KILPATRICK, Mr. MEEHAN, Ms. ROYBAL-ALLARD, Mr. MILLER of California, Mrs. MALONEY of New York, Mr. GUTIERREZ, Mr. DELAHUNT, Ms. CARSON, Mr. MARTINEZ, Mrs. MEEK of Florida, Mr. HINCHEY, Mr. OWENS, Mr. TIERNEY, Mr. FATTAH, Mr. PAYNE, Mr. NEAL of Massachusetts, Mr. ACKERMAN, Ms. WATERS, Ms. BROWN of Florida, Mr. POMEROY, and Ms. HOOLEY of Oregon):

H.R. 2997. A bill to establish a commission on fairness in the workplace; to the Committee on Education and the Workforce.

By Mr. LEVIN (for himself and Mr. KILDEE):

H.R. 2998. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Service Corps Scholarship Program; to the Committee on Ways and Means.

By Mr. LEVIN:

H.R. 2999. A bill to amend title XVIII and XIX of the Social Security Act to expand and clarify the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Commerce, and in addition 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. OXLEY (for himself, Mr. CONDIT, Mr. JOHN, Mr. BLILEY, Mr. FORD, Mr. UPTON, Mr. GREENWOOD, Mr. KLUG, Mr. MARTINEZ, Mr. GOODLING, Mr. TRAFICANT, Mr. TAUZIN, Mr. PETERSON of Minnesota, Mr. STENHOLM, Mr. GILLMOR, Mr. BISHOP, Mr. PAXON, Mr. SISISKY, Mr. LARGENT, Mr. BAESLER, Mr. BUYER, Mr. GOODE, Mr. FRELINGHUYSEN, Mr. BOYD, Mrs. EMERSON, Mr. CRAMER, Mr. BARRETT of Nebraska, Mr. HOLDEN, Mr. BURR of North Carolina, Mr. PICKETT, Mr. HEFLEY, Mr. MCINTYRE, Mr. DUNCAN, Mr. SANDLIN, Mr. PETERSON of Pennsylvania, and Mr. RUSH):

H.R. 3000. A bill to amend the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, 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.

By Mrs. LOWEY (for herself, Mrs. JOHNSON of Connecticut, Mr. HOYER, Mrs. MORELLA, Mr. NADLER, Mr. STEARNS, Ms. DELAURO, Mr. LEACH, Mr. LEWIS of Georgia, Mr. WICKER, and Mr. CARDIN):

H.R. 3001. A bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes; to the Committee on Commerce.

By Mrs. LOWEY:

H.R. 3002. A bill to expand the educational and work opportunities of welfare recipients under the program of block grants to States for temporary assistance for needy families; to the Committee on Ways and Means.

By Mr. MCCOLLUM (for himself, Mr. LEACH, Mr. LAFALCE, Mrs. ROUKEMA, Mr. BEREUTER, Mr. BAKER, Mr. BACHUS, Mr. KING of New York, Mr. ROYCE, Mr. EHRLICH, Mr. BARR of Georgia, Mr. COOK, Mr. SESSIONS, Mr. HILL, and Mr. BONO):

H.R. 3003. A bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to safeguard confidential banking and credit union information, and for other purposes; to the Committee on Banking and Financial Services.

By Mrs. MALONEY of New York (for herself, Mrs. MORELLA, and Mr. COBURN):

H.R. 3004. A bill to amend part E of title IV of the Social Security Act to require States to administer qualifying examinations to all State employees with new authority to make decisions regarding child welfare services, to expedite the permanent placement of foster children, to facilitate the placement of foster children in permanent kinship care arrangements, and to require State agencies, in considering applications to adopt certain foster children, to give preference to applications of a foster parent or caretaker relative of the child; to the Committee on Ways and Means.

By Mrs. MALONEY of New York (for herself, Mr. DELLUMS, Mr. MANTON, and Mr. PETERSON of Minnesota):

H.R. 3005. A bill to amend part E of title IV of the Social Security Act to require States to have laws that would permit a parent who is chronically ill or near death to name a standby guardian for a minor child without surrendering parental rights; to the Committee on Ways and Means.

By Ms. MILLENDER-MCDONALD:

H.R. 3006. A bill to direct the Attorney General to provide a written opinion regarding the constitutionality of proposed state ballot initiatives, and for other purposes; to the Committee on the Judiciary.

By Mrs. MORELLA:

H.R. 3007. A bill to establish the Commission on the Advancement of Women in Science, Engineering, and Technology Development; to the Committee on Education and the Workforce, and in addition to the Committee on Science, 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. NEUMANN:

H.R. 3008. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Budget, 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. PALLONE (for himself, Mr. GILMAN, Mr. BROWN of Ohio, Mr. FOX of Pennsylvania, Ms. SANCHEZ, Mr. HORN, Ms. ESHOO, Mr. GREEN, Mr. FROST, Mr. ANDREWS, Mr. FILNER, Mr. ACKERMAN, Mr. WEXLER, Mr. BROWN of California, Mrs. MALONEY of New York, Mr. HASTINGS of Florida, Mr. PASCRELL, Mr. MASCARA, Mr. DAVIS of Illinois, Ms. MILLENDER-MCDONALD, Ms. CARSON, Mrs. CLAYTON, Mr. LAMPSON, Mr. NADLER, Ms. JACKSON-LEE, Mr. ROTHMAN, Mr. ENGEL, Mr. PAYNE, Mr. MCCOLLUM, Mr. SHERMAN, Mr. CRAMER, and Mrs. MORELLA):

H.R. 3009. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish standards for managed care plans; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, 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. PALLONE (for himself, Mr. SHERMAN, Mr. FOX of Pennsylvania, Mr. VISCLOSKY, Mr. BONIOR, Ms. ESHOO, Mr. KENNEDY of Rhode Island, Mr. ROTHMAN, Mr. ROGAN, Mr. WEYGAND, Mr. RADANOVICH, Mr. MARKEY, Mr. MORAN of Virginia, and Mr. KENNEDY of Massachusetts):

H.R. 3010. A bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of the South Caucasus; to the Committee on International Relations, and in addition to the Committees on Ways and Means, 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. PASCRELL:

H.R. 3011. A bill to amend the Internal Revenue Code of 1986 to exclude certain severance payment amounts from income; to the Committee on Ways and Means.

By Mr. POMEROY:

H.R. 3012. A bill to amend Public Law 89–108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes; to the Committee on Resources.

By Ms. PRYCE of Ohio (for herself, Mr. EWING, and Mr. GREENWOOD):

H.R. 3013. A bill to reduce the incidence of child abuse and neglect, and for other purposes; to the Committee on the Judiciary.

By Mr. RADANOVICH (for himself, Mr. BILBRAY, Ms. ESHOO, Mr. MILLER of California, Mr. ROGAN, Mr. LEWIS of California, Ms. PELOSI, Mr. POMBO, and Mr. FARR of California):

H.R. 3014. A bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to expand the number of county operated health insuring organizations authorized to enroll Medicaid beneficiaries; to the Committee on Commerce.

By Mr. SANDERS:

H.R. 3015. A bill to provide additional appropriations for certain nutrition programs; to the Committee on Appropriations.

By Mr. SANDERS (for himself, Mr. SHAYS, and Mr. DEFAZIO):

H.R. 3016. A bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilities, and for other purposes; to the Committee on Commerce.

By Mr. SANDERS:

H.R. 3017. A bill calling for ratification of the United Nations Convention on the Rights of the Child; to the Committee on International Relations, and in addition 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. SCARBOROUGH (for himself and Mrs. THURMAN):

H.R. 3018. A bill to release the reversionary interests retained by the United States in four deeds that conveyed certain lands to the State of Florida so as to permit the State to sell, exchange, or otherwise dispose of the lands, and to provide for the conveyance of certain mineral interests of the United States in the lands to the State of Florida; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LINDA SMITH of Washington:

H.R. 3019. A bill to amend the Federal Election Campaign Act of 1971 to prohibit the use of soft money by political parties, to permit individuals to elect to not have payroll deductions used for political activities, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on the Judiciary, 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. STOKES:

H.R. 3020. A bill to establish a program, primarily through the States and municipalities, and their agents, to facilitate the environmental assessment, cleanup, and reuse of abandoned or underutilized, potentially contaminated properties not on, or proposed for inclusion on, the National Priorities List; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, 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.

By Mr. STUPAK:

H.R. 3021. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reduce certain funds if eligible States do not enact certain laws; to the Committee on the Judiciary.

By Mr. WATT of North Carolina (for himself, Mr. CONYERS, and Mr. COLLINS):

H.R. 3022. A bill to amend title 10, United States Code, to authorize the settlement and payment of claims against the United States for injury and death of members of the Armed Forces and Department of Defense civilian employees arising from incidents in which claims are settled for death or injury of foreign nationals; to the Committee on the Judiciary.

By Mr. WELDON of Pennsylvania (for himself and Mr. MARKEY):

H.R. 3023. A bill to end American subsidization of entities contributing to weapons proliferation; to the Committee on Intelligence (Permanent Select), and in addition to the Committees on Banking and Financial Services, and International Relations, 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. LIVINGSTON:

H.J. Res. 104. A joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes; to the Committee on Appropriations. considered and passed.

By Mr. LIVINGSTON:

H.J. Res. 105. A joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes; considered and passed.

By Ms. VELAZQUEZ (for herself, Mr. GUTIERREZ, and Mr. SERRANO):

H. Con. Res. 192. Concurrent resolution expressing the sense of the Congress that the heroism of the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict should be commemorated; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICA (for himself, Mr. CONDIT, Mr. UPTON, Mr. WELDON of Florida, Mr. NORWOOD, Mr. PAPPAS, Mrs. FOWLER, Mr. SCARBOROUGH, Mr. SALMON, Mr. PITTS, Mr. HILLEARY, Mr. ROHRABACHER, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. MILLER of Florida, Mr. HERGER, Mr. STEARNS, Mr. POMBO, Mr. LUCAS of Oklahoma, Mr. KINGSTON, Mr. SANFORD, Mr. JONES, Mr. BRADY, Mr. BACHUS, Mr. ROGAN, Mr. PICKERING, Mr. LAZIO of New York, Mr. INGLIS of South Carolina, Mr. PORTMAN, Mr. BLUNT, Mr. SHIMKUS, Mr. HEFLEY, Mr. HOSTETTLER, Mr. BURTON of Indiana, Mr. CHAMBLISS, Mr. LATOURETTE, Mr. WELLER, Mr. YOUNG of Florida, Mr. MCDADE, Mr. CALLAHAN, Mr. FOLEY, Mr. DIAZ-BALART, Mr. DICKEY, Mr. WAMP, Mr. COX of California, Mr. MANZULLO, Mr. GILCHREST, Mr. BARTLETT of Maryland, Mr. RIGGS, Mr.

SAXTON, Mr. SHAYS, Mr. THOMAS, Mr. PAUL, Mr. HAYWORTH, Mr. BUYER, Mr. WICKER, Mrs. KELLY, Mr. COLLINS, Mr. EVERETT, Mr. LOBIONDO, Mr. HORN, Mr. KNOLLENBERG, Mr. RAMSTAD, Mr. MORAN of Virginia, Mr. ENSIGN, Mr. NETHERCUTT, Mrs. LINDA SMITH of Washington, Mr. RYUN, Mr. FRANKS of New Jersey, Mrs. CHENOWETH, Mr. SOUDER, Mr. TIAHRT, Mr. GUTKNECHT, Mr. KLUG, Mr. MCCOLLUM, Mr. MCKEON, Mr. DUNCAN, Mr. ENGLISH of Pennsylvania, Mr. THUNE, Mr. SMITH of New Jersey, Ms. GRANGER, Mr. SMITH of Michigan, Mr. WATKINS, Mr. BURR of North Carolina, Mr. WATTS of Oklahoma, Mr. STENHOLM, Mr. PETERSON of Minnesota, Mr. BOYD, Mr. OBERSTAR, Mr. CRANE, and Mr. EHLERS):

H. Con. Res. 193. Concurrent resolution expressing the sense of the Congress that the Attorney General should remove Hani El-Sayegh from the United States to the Kingdom of Saudi Arabia; to the Committee on the Judiciary.

By Mr. SOLOMON:

H. Con. Res. 194. Concurrent resolution providing for a joint session of Congress to receive a message from the President; adopted pursuant to H. Res. 311.

By Ms. HARMAN (for herself, Mr. SAWYER, Mr. REGULA, Mr. SPRATT, Mr. DAVIS of Virginia, Mr. PORTMAN, Mr. BECERRA, Mr. HASTINGS of Florida, Mr. BARRETT of Wisconsin, Mr. WATT of North Carolina, Ms. ROS-LEHTINEN, Mr. HOUGHTON, Mr. DICKEY, Mr. LEWIS of Georgia, Mr. MATSUI, and Ms. MILLENDER-MCDONALD):

H. Con. Res. 195. Concurrent resolution expressing the sense of Congress in support of National Days of Dialogue associated with the national celebration of the birth of Dr. Martin Luther King, Jr. to improve understanding and cooperation across race, ethnicity, culture, gender, religion and creed; to the Committee on the Judiciary.

By Mr. DAN SCHAEFER of Colorado:

H. Res. 317. A resolution providing for the agreement of the House to the Senate amendment to the bill, H.R. 2472, with an amendment; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 318. Resolution relating to a question of the privileges of the House; considered and laid on the table.

By Mr. SOLOMON:

H. Res. 320. Resolution providing for a committee to notify the President of completion of business; adopted pursuant to H. Res. 311.

By Mr. KENNEDY of Massachusetts:

H. Res. 321. A resolution expressing the sense of the House of Representatives that college and university administrators should adopt a code of principles to change the culture of alcohol consumption on college campuses; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. RIGGS.
H.R. 34: Mr. SUNUNU.
H.R. 225: Mr. ABERCROMBIE.
H.R. 251: Mr. PETERSON of Pennsylvania.
H.R. 352: Mr. SALMON.
H.R. 409: Mr. PAPPAS.
H.R. 530: Mr. BEREUTER and Mr. CALVERT.
H.R. 543: Mr. SOLOMON, Mr. NETHERCUTT, Mr. DIXON, and Mr. HYDE.
H.R. 586: Mr. JOHNSON of Wisconson.
H.R. 738: Ms. SLAUGHTER.
H.R. 820: Ms. FURSE.
H.R. 979: Mr. JOHNSON of Wisconsin and Ms. WATERS.
H.R. 992: Mr. DEAL of Georgia and Mr. HUTCHINSON.
H.R. 1151: Mr. ABERCROMBIE and Mr. SESSIONS.
H.R. 1289: Mr. YATES.
H.R. 1334: Mr. RIGGS and Ms. PELOSI.
H.R. 1415: Mr. GOODLING.
H.R. 1519: Mr. STOKES.
H.R. 1525: Mr. MCNULTY.
H.R. 1591: Mr. BARR of Georgia, Mr. SNOWBARGER, and Mr. SCARBOROUGH.
H.R. 1628: Mr. KIM.
H.R. 1635: Mr. BAESLER, Mr. SAXTON, Mr. LEACH, Mr. COSTELLO, Mrs. LOWEY, Mr. HINCHEY, Mr. ROMERO-BARCELÓ, Mr. HORN, Mr. WAXMAN, and Mr. SKAGGS.
H.R. 1822: Mr. JOHNSON of Wisconsin.
H.R. 1872: Mr. GREENWOOD, Mr. STRICKLAND, Mr. DAVIS of Virginia, Mr. PALLONE, Mr. LINDER, Mr. DICKS, Mr. GREEN, and Mr. RUSH.
H.R. 1891: Mr. BOEHNER.
H.R. 2053: Mr. LOFGREN.
H.R. 2131: Mr. JOHNSON of Wisconsin.
H.R. 2174: Mr. MALONEY of Connecticut.
H.R. 2229: Mr. WATTS of Oklahoma.
H.R. 2273: Mr. STUPAK, Mr. BAESLER, Mr. MALONEY of Connecticut, and Mr. HUTCHINSON.
H.R. 2319: Mr. LUTHER.
H.R. 2321: Mr. RIGGS.
H.R. 2335: Mr. CONDIT.
H.R. 2363: Mr. CABOT, Mr. DREIER, Mr. KOLBE, Mr. LIVINGSTON, Mr. RYUN, Mr. SAXTON, Mr. SMITH of Oregon, Mr. SOLOMON, Mr. SPENCE, and Mr. WICKER.
H.R. 2369: Mr. CAMPBELL.
H.R. 2391: Mr. KUCINICH, and Mr. MCGOVERN.
H.R. 2397: Ms. SLAUGHTER.
H.R. 2436: Mr. LAFALCE.
H.R. 2483: Mr. FRANKS of New Jersey.
H.R. 2500: Mr. ARMEY, Mr. BAESLER, Mr. BAKER, Mr. BALLENGER, Mr. BARCIA of Michigan, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BEREUTER, Mr. BLAGOJEVICH, Mr. BLILEY, Mr. BOEHLERT, Mr. BOEHNER, Mr. BONILLA, Mr. BONO, Mr. BOYD, Mr. BRYANT, Mr. BUNNING of Kentucky, Mr. BURR of North Carolina, Mr. CALVERT, Mr. CANADY of Florida, Mr. CHABOT, Mr. CHAMBLISS, Mr. CHRISTENSEN, Mr. CLEMENT, Mr. COBLE, Mr. CONDIT, Mr. COOK, Mr. COOKSEY, Mr. COX of California, Mr. CRANE, Mr. DEAL of Georgia, Mr. DEUTSCH, Mr. DOOLEY of California, Mr. DREIER, Ms. DUNN of Washington, Mr. EHRLICH, Mr. FATTAH, Mr. FOLEY, Mrs. FOWLER, Mr. FOX of Pennsylvania, Mr. FROST, Ms. FURSE, Mr. GILMAN, Mr. GOODE, Mr. GOODLATTE, Mr. GOODLING, Mr. GORDON, Mr. GOSS, Mr. HALL of Texas, Mr. HANSEN, Mr. HASTERT, Mr. HEFLEY, Mr. HILL, Mr. HOLDEN, Mr. HUNTER, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. JENKINS, Mr. JONES, Mr. SAM JOHNSON, Mr. KASICH, Mrs. KELLY, Mr. KENNEDY of Rhode Island, Mr. KING of New York, Mr. LATOURETTE, Mr. LEWIS of California, Mr. LINDER, Ms. MCCARTHY of Missouri, Mr. MEEHAN, Mr. METCALF, Mr. MORAN of Virginia, Mrs. MYRICK, Mr. NEY, Mrs. NORTHUP, Mr. OXLEY, Mr. PARKER, Mr. PAXON, Mr. PETERSON of Minnesota, Mr. PICKETT, Mr. REDMOND, Mr. RIGGS, Mr. ROEMER, Mr. ROGAN, Mr. ROYCE, Mr. SAXTON, Mr. SCARBOROUGH, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHIMKUS, Mr. SISISKY, Mr. SKELTON, Mr. ADAM SMITH of Washington, Mr. SMITH of Texas, Mr. SOLOMON, Mr. SPENCE, Mr. STENHOLM, Mr. TANNER, Mrs. TAUSCHER, Mr. TAUZIN, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, Mr. WELLER, Mr. BURTON of Indiana, Mr. DICKEY, Mr. ARCHER, Mr. QUINN, Mr. LAHOOD, Mr. TIAHRT, Mr. DAVIS of Virginia, Mr. THOMAS, Mr. CUNNINGHAM, Mr. ENSIGN, Mr. GIBBONS, Mr. STUMP, Mr. COMBEST, Mr. HAYWORTH, Mr. ROHRABACHER, Mr. CALLAHAN, Mr. EVERETT, Mr. STEARNS, Mr. DELAY, Mr. GINGRICH, and Mr. LIVINGSTON.
H.R. 2509: Mr. LEWIS of Georgia.
H.R. 2524: Mr. ABERCROMBIE.
H.R. 2593: Mrs. LOWEY, Mr. WAMP, Mr. GRAHAM, Mr. NETHERCUTT, Mr. BRADY, Mr. KNOLLENBERG, Mr. SENSENBRENNER, Mr. MCINTOSH, Mr. HOBSON, Mr. TAYLOR of North Carolina, Mr. WELDON of Pennsylvania, Mr. MICA, Mr. DICKEY, Mr. THOMAS, Mr. CANNON, Mr. SAXTON, Mr. SOLOMON, Mrs. KELLY, Mr. MANZULLO, Mr. WELDON of Florida, Mr. PAXON, Mr. SNOWBARGER, Mr. HORN, Mr. SALMON, Mr. DAN SCHAEFER of Colorado, Mr. NEY, Mr. STUMP, and Mr. RAMSTAD.
H.R. 2611: Mr. BLUNT, Mr. DUNCAN, Mr. TAUZIN, Mr. BARR of Georgia, Mr. BILBRAY, Mr. CANNON, Mr. CHRISTENSEN, Mr. HEFLEY, Mr. MCKEON, Mr. MICA, Mrs. LINDA SMITH of Washington, Mr. SMITH of Oregon, Mr. SOUDER, Mr. SPENCE, Mr. EHRLICH, Mr. RIGGS, and Mr. CRANE.
H.R. 2695: Mr. BONIOR, Mr. DELLUMS, Mr. KUCINICH, Mr. MCGOVERN, Ms. LOFGREN, Mrs. THURMAN, and Ms. MILLENDER-MCDONALD.
H.R. 2750: Mrs. THURMAN.
H.R. 2755: Mr. WAXMAN, Mrs. MINK OF HAWAII, Mr. FRANK OF MASSACHUSETTS, Mr. FROST, Mr. WALSH, Ms. LOFGREN, Ms. CARSON, Ms. KILPATRICK, Mr. BONIOR, and Mr. EVANS.
H.R. 2760: Mr. CALVERT, Mr. BACHUS, and Mr. RADANOVICH.
H.R. 2780: Mr. CAMPBELL, Mr. LARGENT, Mr. MCINTOSH, Mr. BRYANT, Mr. WHITE, Mr. LATOURETTE, and Mr. SALMON.
H.R. 2819: Mr. HERGER and Ms. HARMAN.
H.R. 2820: Mr. CALVERT.
H.R. 2821: Mr. NEAL of Massachusetts.
H.R. 2826: Ms. SLAUGHTER and Ms. NORTON.
H.R. 2829: Mr. ACKERMAN, Mr. DAVIS of Illinois, Mr. FARR of California, Mr. KUCINICH, Mr. PARKER, Mr. POMEROY, Mr. SCHUMER, and Ms. STABENOW.
H.R. 2846: Mr. WATTS of Oklahoma and Mr. EHRLICH..
H.R. 2850: Ms. LOFGREN and Mr. STOKES..
H.R. 2858: Mr. GONZALEZ.
H.R. 2870: Mr. EWING.
H.R. 2921: Mr. WHITFIELD, Mr. SHIMKUS, Mr. NORWOOD, Mr. HALL of Texas, Mr. GREENWOOD, Mr. STEARNS, Mr. HILL, Mr. MCHUGH, Mr. PACKARD, and Mr. BONILLA.
H.R. 2922: Mr. HUTCHINSON.
H.R. 2929: Mr. BACHUS.
H.R. 2938: Mr. MILLER of Florida and Mr. STEARNS.
H.R. 2940: Mr. BAKER.
H.J. Res. 99: Ms. SLAUGHTER.
H. Con. Res. 41: Mr. LOBIONDO.
H. Con. Res. 141: Mr. DAVIS of Illinois and Mr. ADAM SMITH of Washington.
H. Con. Res. 156: Mr. CLEMENT and Mr. CALVERT.
H. Con. Res. 181: Mr. MCGOVERN, Mrs. MORELLA, Mr. GEKAS, Mr. FORBES, and Mr. LAZIO of New York.
H. Res. 119: Mr. ALLEN.
H. Res. 251: Mr. MANTON, Mr. WAXMAN, Mr. ALLEN, and Ms. STABENOW.
H. Res. 279: Ms. SLAUGHTER.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, SUNDAY, NOVEMBER 9, 1997 No. 157

Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be led by Father Paul Lavin of St. Joseph's on Capitol Hill. We are pleased to have you with us.

PRAYER

The guest Chaplain, Father Paul E. Lavin, pastor, St. Joseph's on Capitol Hill, Washington, DC, offered the following prayer:

In Psalm 86, David sings:

Teach me, Lord, your way that I may walk in your truth, single hearted and revering your name.

I will praise you with all my heart, glorify your name forever, Lord, my God.

Your love for me is great; you have rescued me from the depths of Sheol.—Psalm 86: 11–13.

Let us pray:

We stand before you, O Lord, conscious of our sinfulness but aware of Your love for us.

Come to us, remain with us, and enlighten our hearts.

Give us light and strength to know Your will, to make it our own, and to live it in our lives.

Guide us by Your wisdom, support us by Your power, keep us faithful to all that is true.

You desire justice for all: Enable us to uphold the rights of others; do not allow us to be misled by ignorance or corrupted by fear or favor.

Glory and praise to You for ever and ever. Amen

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, before I talk about today's schedule, I do want to commend a number of Senators who have been doing yeomen's work over the past 2 days. Even though we haven't had a lot of recorded votes, we have been making good progress. I remind the Senate that we did come to an agreement after actually at least 3 years of going back and forth on a bipartisan Amtrak bill, which passed on Friday on a voice vote. That now will be in conference, and I think there is even a chance that we could get an agreement on that conference report before we go out. If we don't, it will be something we should reach early agreement on in conference when we come back after the first of the year.

Also, the Senate did agree to pass a fix with regard to ISTEA, or the highway infrastructure bill, which is now before the House for their consideration.

NOTICE

Under the Rules for Publication of the Congressional Record, a final issue of the Congressional Record for the first session of the 105th Congress will be published on **(the 31st day after adjournment)**, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or ST–41 of the Capitol), no later than 10 days following adjournment. Office hours of the Official Reporters of Debates are 10:00 a.m. to 3:00 p.m. Monday through Friday through **(the 10th day after adjournment)**.

The final issue will be dated **(the 31st day after adjournment)** and will be delivered on **(the 33d day after adjournment)**.

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By order of the Joint Committee on Printing.

JOHN WARNER, *Chairman.*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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The Senate yesterday passed by an overwhelming vote of 91 to 4 the very large and important Labor, Health and Human Services, and Education appropriations bill conference report, and just last night we reached an agreement after a lot of good work by a lot of Senators, including Senator CHAFEE, Senator ROCKEFELLER, Senator ROTH, Senator GRASSLEY, Senator CRAIG, who really did the great work in bringing the divergent parties together, Senator DEWINE and others, on the foster care-adoption issue. I think this will be, frankly, one of the things that we will be most proud of when this year is concluded. We did that last night. Once, again, after a lot of hard work and good cooperation, that passed last night on a voice vote.

Today, continued effort will be made to get an agreement in conference for the Food and Drug Administration reform bill. Probably 12 or 14 times we reached agreement and closed the conference, all to find that something was misplaced along the way or the agreement was not what others had thought it would be, and so it is still alive. I talked again to interested Senators this morning, and they will be working on it today. This, again, is something we need to do before we leave. So there is a lot happening in terms of Senators meeting; in the case of FDA reform, the House and Senate Members meeting on the conference report. I am looking forward to that agreement being reached.

Later on today, there is a good possibility that we will consider an omnibus appropriations bill to be offered by the chairman and the ranking member of the Appropriations Committee. We do not now have a fixed time agreement, and there is no certainty whether or not there will be a rollcall vote or when that would be. There is still some discussion going on with regard to that bill. But in any event, once a decision is made on that legislation, if a rollcall vote is required, Senators will be notified 1 hour prior to that first vote.

We are also continuing to work to see if we can get an agreement to move the District of Columbia appropriations bill through the Senate on a voice vote and through the House, so it can go down separately for the President's consideration to sign or veto it or to line-item veto the scholarship portion of it, which I think would be a big mistake. That still could come up either on a voice vote or perhaps a recorded vote would be required on that, as well as the omnibus appropriations bill.

In addition, the Senate could expect to consider other Legislative or Executive Calendar items. The Executive Calendar now is down to just a very few nominations. Several of them are being held at this time because of holds on other nominations. Today is the day when Senators need to consider if, in fact, they want to hold these nominations up for the remainder of the year and over into next year. We have worked very assiduously with interested Senators on both sides of the aisle. The administration tried to clear as many of these as possible, and we will do so again today.

The House of Representatives is, at this point, scheduled to consider the fast-track legislation late this afternoon or early evening. I have spoken to House leaders. There is no certainty at this time as to when that vote will occur. It looks to me like it will certainly be late afternoon or into the night. Therefore, the Senate can do nothing more really on fast track other than await the action in the House. If they should not pass the bill, then it would be my intent, and I believe it would be agreed to by leaders on both sides of the aisle, not to go further in the Senate with fast track. If it passes, then we have to make an assessment as to how we can bring it to a conclusion in the Senate. That could be tonight, it could be Monday, or it could be something else, which I don't even want to mention at this point.

We also have the three remaining appropriations bills—Commerce, State, Justice; District of Columbia; and foreign operations. All of those still have an item or two that are in contention. We don't know whether we will move on the omnibus appropriations bill or whether the House will decide to go ahead and act on the bills separately and send them to us. But we will be working throughout the day to try to ascertain when we will get those appropriations bills and in what form.

I think then the bottom line is, we do not expect a recorded vote any time soon. Senators will be notified 1 hour in advance should a recorded vote be required this afternoon. All Senators should be aware, and they need to keep their schedules clear, so that we can perhaps still have an opportunity to conclude this year's session today or tonight.

I now ask that there be a period for the transaction of morning business——

Mr. LEAHY. Mr. President, before he does that, will the majority leader yield?

Mr. LOTT. I withhold, and I will be glad to yield, Mr. President, to the Senator from Vermont.

Mr. LEAHY. Mr. President, my friend from Mississippi has raised the issue of the appropriations bills. Senators, as he knows, have been working very, very hard on that—the distinguished chairman of the committee, Mr. STEVENS, the distinguished ranking member, Mr. BYRD, and those of us who are either ranking or chairmen of the appropriate subcommittees that are involved, in this case three key ones.

Mr. President, I note, as we have discussed privately, that there will not be a perfect piece of appropriations legislation, I say to my friend from Mississippi, from anyone's point of view. It is not precisely what he would write if he were to write it solely by himself; it is not precisely what I would write if I wrote it solely by myself, and we could say that with the other 98 men and women in this body.

At some point, when you are down to the last few hours of the session, we have to allow the committee system and the leadership system to work, where senior Members, especially of appropriations, where senior Members in both parties, in both bodies have to come together and reach an agreement, realizing that not every single Member on the left or on the right is going to like it. But you have to trust at some point some question of seniority in putting this together.

I didn't care much for the seniority system when I came here 23 years ago, but having studied it for 23 years, I understand it so much better now. I say to my friend, the majority leader, and I think he would agree with me, that in the last few days of the session, especially with appropriations, you are not going to get a bill that is going to please every single Member 100 percent, but we have to get something done because at some point you have to fish or cut bait.

I just mention that because I know the distinguished majority leader has been working as hard on this as anybody else to get us to this point.

Mr. LOTT. I have used those exact words, I might say, ''fish or cut bait.''

I will note again, we made tremendous progress in the past week on appropriations bills and other issues. I mentioned Amtrak, the highway bill, FDA, adoption and foster care, and I believe even on appropriations bills basically everything has been worked out but one issue. Obviously, we concluded an acceptable compromise on the Labor-HHS appropriations conference report involving the testing language.

I believe we have an agreement worked out with regard to the census language that would be incorporated in the Commerce, State, Justice appropriations bill.

I believe the two remaining issues for the year boil down to this: Can the House get the votes for fast track, since the Senate has already spoken overwhelmingly with votes of 68 and 67 for cloture motions to limit the debate so we can get to final passage, and the other one is the foreign operations bill, which includes a number of very important issues. Obviously, it involves the funds for our foreign operations; it involves the agreement with regard to how much would be paid for the U.N. arrearages; it involves the State Department authorization and reform and reorganization bill; it involves funds for the International Monetary Fund. But the one issue that is holding it all up, basically, boils down to whether or not the taxpayers' dollars will be used to promote and encourage foreign governments to encourage abortions. The bill that I thought we had agreed to provided a waiver where the President could waive that, but it would affect the funds.

It has gotten down to a very narrow issue. You are right, we are not going

to come to an agreement that every Senator will agree to, but I think we are close enough on that issue that we ought to be able to reach agreement and bring the foreign operations appropriations conference report to a conclusion. And if we can get that agreement and fast track, we will have completed the year on a very high note and one that the American people, I think, will be proud of and of which we could be proud.

The taxpayers of the United States have had a pretty good year. We would like to end up with agreements on these important issues. Certainly, it won't be perfect, as the Senator has said, but we have tried compromise after compromise after compromise. So far, none of them have taken hold. But I have faith that on Sunday, we will find a way to do that. Certainly, I do think that senior Members and leaders have to step up to these challenges and get the job done.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business until the hour of 1:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

THANKING THE SENATE STAFF

Mr. LEAHY. Mr. President, I will be very brief because I see other Senators waiting to take the floor. I will note a couple of things. The distinguished majority leader has mentioned that it is Sunday. The guest Chaplain today, Father Paul Lavin of St. Joseph's Church, is my pastor when I am away from my home in Vermont, which is not often on a Sunday.

But this Sunday is extraordinary, that is, being in Washington and not in Vermont.

Father Lavin also prayed for, in the mass this morning which my wife and I attended, the Congress and the Government, and so forth, as we all do.

Sometimes we have to be careful we don't get too much of what we pray for, but I think it would probably be safe to say, as I look around at the staff and everybody else here, that they were probably praying that it would come to a conclusion.

In that respect, I note, Mr. President, as I have in other years, that while I may joke about Senators being nothing but constitutional impediments to the staff, the fact is, the U.S. Senate, the greatest parliamentary body in the world, could not exist without the extraordinarily talented men and women who work on Capitol Hill for Members on both sides of the aisle, for committees, for the Senate itself, and those who take the notes of our proceedings, to those who keep the procedures of the Senate moving.

I say a special compliment to the young men and women who come here and serve as pages, come from all over the country and serve here as pages. I have been fortunate to have had a series of some of the most exemplary young men and women from Vermont who have served here as pages. They go through a rigorous screening process. Only the best get picked. And they go back to be the best among our citizens in our own State.

The people in this country ofttimes do not realize the extraordinary dedication of the men and women who work here who sometimes put in literally around-the-clock hours and days, who literally give of themselves more than any private industry could ever expect of anyone. And that is what makes the Senate work.

My friend from Mississippi and I were discussing earlier putting together this last-minute legislation. Well, we can make some policy decisions, but it is these people who have to then pull it together. For Foreign operations, Tim Rieser, from my staff, carries out my duties as ranking member on that. There are dozens of others on both sides that have to do this—Robin Cleveland for Senator MCCONNELL, who is the chairman of that subcommittee.

And it is the same with all the subcommittees, trying to pull these pieces together and actually have the paper. We stand up and say ''aye'' or ''nay,'' but they have to have the papers on the floor in perfect condition for us to vote on them.

Then, whether it is the people in the Cloakroom, the people back at our offices, or anybody else, they also give up their family time to be here for the good of the country.

FOREIGN AID

Mr. LEAHY. Mr. President, I hope we can complete these foreign aid bills. I would also say to my friend from Mississippi, he mentioned whether we should use taxpayers' money for abortion in the foreign aid bill. There is a specific prohibition against any U.S. dollars being used for abortions abroad in the foreign aid bill.

In fact, as Senator Mark Hatfield, former chairman of the Appropriation Committee, and I pointed out on the floor earlier—he was very much a right-to-life, antiabortion Senator, consistent in that—pointed out that the family planning moneys that have gone in the foreign aid bill have dramatically decreased the number of abortions in those areas where they were used.

An example was Russia where abortion was used as a form of birth control, where we gave them family planning money and the number of abortions dropped dramatically.

So I hope that we will continue to do that and realize, while family planning is something available to most people in the United States, in a lot of other countries it is not available because of costs, because of techniques, because of training, for whatever reason. Unfortunately, in those countries ofttimes abortions are a means of family planning. So I hope that those who are against abortion would realize family planning money can help us prevent that.

NOMINATIONS

Mr. LEAHY. Then lastly, Mr. President—I will probably speak on this again this afternoon. If we go out, it means there will not be a chance to confirm a number of judges who are pending, who have been pending for a considerable period of time; one in particular, who has been voted out of our committee twice, once last year and again this year, Margaret Morrow, one of the most qualified people, man or woman, ever to be nominated to be a district court judge.

We also have what I think is the shocking situation of Bill Lann Lee, who has been subjected to some of the most scurrilous charges—charges, unfortunately, repeated even by Members of the Senate. The charges have been refuted, but need to be refuted in a hearing. We have asked for a further hearing on Bill Lann Lee just so those charges can be refuted. We have been told that we cannot have that hearing.

I renew the request. We should have it.

We talk about civil rights in this country. The civil rights of this country are determined by having strong laws and strong people to enforce those laws. I do not believe in the better natures of our souls as Americans that all of us would support the civil rights of all others simply in a vacuum. Many of us would; others do need the requirement of a law to do that.

I would like to think that I am a person who would never break into an unlocked, unguarded warehouse in the middle of the night to steal things. But we have laws and locks to prevent others who may not feel as strongly motivated to obey the commandment: ''Thou shalt not steal.''

By the same token, we set up laws that say: ''You shall not discriminate. You shall protect the civil rights of all Americans.'' Those laws need to be enforced. We do not have a chief enforcer now. The President has nominated Bill Lann Lee, a most qualified person for that position.

Unfortunately, the debate on this fine nominee took a decidedly partisan turn when the Speaker of the House chose to intervene in this matter and urge the Senate Republican leader to kill this nomination. He waited until after the confirmation hearing to raise and mischaracterize a case about which no member of the Senate Judiciary Committee, Republican or Democrat, had asked a single question. Indeed, apparently unaware of the decision of his

party leaders to defeat this nominee, Chairman HATCH predicted on the weekend news programs following the hearing that the nomination would be reported favorably by the Judiciary Committee but might face tough going on the Senate floor.

In his unfortunate letter, Speaker GINGRICH unfairly criticized Mr. Lee and accused him of unethical conduct. Since that letter Speaker GINGRICH's charges have been repeated over and over again. Indeed, Senator HATCH devoted an entire section of his statement last Tuesday opposing Mr. Lee to the Tipton-Whittingham case. Because of the mischaracterizations of this case and the misstatements of Mr. Lee's record and because Republican opponents are now distorting and contorting Mr. Lee's views, testimony and work, I thought it appropriate to request an opportunity for Bill Lee to respond to the false charges and impression being espoused by his opposition. I thought it only fair.

On behalf of and along with the other minority members of the Judiciary Committee, I sent Senator HATCH a letter yesterday formally requesting such a hearing. The chairman refused our request for a hearing. That is unfortunate. He explained on a Sunday talk show morning that all the questions that would be raised at an additional hearing had already been covered and implied that questions about the Tipton-Whittingham case had been asked in the extensive written questions to Mr. Lee that followed the hearing.

In fact, no Senator asked a single question about the Tipton-Whittingham case at the October 22 hearing and, although, Mr. Lee was sent page after page of written questions following the hearing, only Senator HATCH asked about the case. Unfortunately, Senator HATCH's question and its answer have been ignored by those opposing Mr. Lee. Speaker GINGRICH and others are making false charges and the nominee has been given no fair opportunity to set the record straight.

Let me explain what the Tipton-Whittingham case is about. I regret having to discuss this matter at all since it remains a pending matter in the District Court for the Central District of California. The case includes serious allegations of sexual harassment and gender and racial discrimination involving the Los Angeles Police Department arising in part from an association of officers, called ''Men Against Women,'' which was apparently organized by former Los Angeles Police detective Mark Fuhrman.

The allegations of wrongdoing carelessly lodged against Mr. Lee are contradicted by the Republican mayor of Los Angeles, Richard Riordan, as well as the vice-president of the Los Angeles Police Commission, T. Warren Jackson, the assistant city attorney, Robert Cramer, and the city attorney, James K. Hahn. I ask unanimous consent that their letters be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, I recall when times were different. I recall when charges were raised against Clarence Thomas and the Judiciary Committee held several days of additional hearings after that nomination had already been reported by the Judiciary Committee to the full Senate. There was a tie vote in committee on the Thomas nomination, which would not have even been reported to the Senate had we not also voted virtually unanimously, with six Democrats joining seven Republicans, to report the Thomas nomination to the floor without recommendation. Of course, ultimately the nomination of Judge Thomas to become Justice Thomas was confirmed by the Senate.

Over the last decade and one-half Republicans have pioneered and developed procedures whereby the Judiciary Committee has reported to the Senate for its consideration nominations on which the committee had come to a tie vote and even, in the case of Judge Bork's nomination to the Supreme Court, an overwhelmingly negative vote.

I recall for example the nomination of Daniel Manion which was reported to the Senate after a tie vote and was ultimately approved by the Senate. I recall, as well, the nomination of Clarence Thomas to the Supreme Court which was reported after a tie vote and ultimately approved by the Senate.

Time after time during the Reagan and Bush years the Republicans on the Judiciary Committee urged that the full Senate be permitted to decide these questions. Senator Thurmond argued in favor of reporting an executive branch nomination on which the committee had voted negatively, noting:

> As long as I am a member of this Committee, I will give an opportunity, whether it is majority or minority, to send the nominations to the Senate. I think the Senate is entitled to the recommendation [of the Committee], and you made the recommendation by the vote just taken. But I think the Senate is entitled to a vote on this matter, I think the President is entitled for the Senate to vote, and I think the country is entitled for the Senate to vote. I would hope it would be sent to the Senate and let the full Senate act.

I have been one, frankly, who has not always supported such action. It took a while to bring me around. But I joined in voting to report the Thomas nomination after a tie vote.

It remains my hope that we will find a way to show Bill Lee the same fairness that we showed Clarence THOMAS and allow his nomination to be debated and voted upon by the U.S. Senate. It would be ironic if, after the Senate proceeded to debate and vote on the Thomas nomination—one that included charges that he engaged in sexual harassment, the Republican leadership prevented the Senate from considering a nominee because he has worked to remedy sexual harassment and gender discrimination.

I feel confident that this nomination, the first Asian-American to head the Civil Rights Division, would be confirmed by the majority of the Senate. I believe that when the facts and record are reviewed fairly and dispassionately he will be confirmed. When the country has had an opportunity to focus on this important nomination and Senators have had a chance to consider how their constituents feel, I am confident that a positive outcome will be assured.

From all that I have seen over the past week, it appears to me that the Republican leadership is intent upon seeking to kill this nomination and determined to kill it in this committee and never give the Senate an opportunity to consider it. I do not think that it is fair or right or right for the country. We need Bill Lee's proven problem-solving abilities in these difficult times.

No one can argue that the President has sent to us a person not qualified by experience to lead the Civil Rights Division. Bill Lee's record of achievement is exemplary. He is a man of integrity and honor and when he said to this committee that quotas are illegal and wrong and that he would enforce the law, no one should have any doubt about his resolve to do what is right. The Senate should be given the opportunity to debate and vote on this outstanding nominee and then give Bill Lee the chance to serve the country and all Americans.

I think the Senate has committed a great wrong to him in blocking his nomination, that is absolutely wrong.

EXHIBIT 1

CITY OF LOS ANGELES,
OFFICE OF THE MAYOR,
Los Angeles, CA, March 20, 1997.

ERSKINE BOWLES,
Chief of Staff, Office of the President,
The White House, Washington, DC.

Re: Bill Lann Lee, Candidate for Assistant Attorney General, Civil Rights Division, United States Department of Justice.

DEAR MR. BOWLES: I am writing to support the appointment of Bill Lann Lee to the United States Department of Justice position of Assistant Attorney General, Civil Rights Division. Throughout his distinguished career as a civil rights lawyer, Mr. Lee has worked to advance the civil rights progress of the nation and of our richly diverse city of Los Angeles.

In my opinion, Bill Lee is an astute lawyer who is superbly qualified to enforce our national civil rights laws. Mr. Lee's candidacy offers the President an excellent opportunity to reaffirm his strong support of women's rights and civil rights laws.

Mr. Lee first became known to me as opposing counsel in an important civil rights case concerning poor bus riders in Los Angeles. As Mayor, I took a leading role in settling that case. The work of my opponents rarely evoke my praise, but the negotiations could not have concluded successfully without Mr. Lee's practical leadership and expertise.

I know that his expertise is the result of working twenty-two years in the ''All Star'' leagues of civil rights litigators. His track record is nationally renowned and speaks for

itself. Beyond the many victories, what makes his work special is that he has represented clients from every background, including poor whites, women and children suffering from lead poisoning. His admirable ability to win the trust of so many communities is evident in the broad coalition of civil rights and women's rights experts who are backing his candidacy for this position.

Mr. Lee has practiced mainstream civil rights law. He does not believe in quotas. He has pursued flexible and reasonable remedies that in each case were approved by a court.

Mr. Lee is an outstanding citizen of Los Angeles. He has my enthusiastic support and strongest recommendation for the position of Assistant Attorney General for Civil Rights.

Sincerely,

RICHARD J. RIORDAN,
Mayor.

LOS ANGELES POLICE COMMISSION,
Los Angeles, CA, November 5, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: As Vice-President of the Los Angeles Police Commission, and a Governor Wilson appointee to the California Fair Employment & Housing Commission (the state's civil rights enforcement agency), please allow me to clarify the record and give my unqualified support for Bill Lann Lee to be Assistant Attorney General for Civil Rights. The clarification involves a case entitled Tipton-Whittingham, et al. v. City of Los Angeles, wherein allegations of sexual harassment and sex discrimination in the Los Angeles Police Department (''LAPD'') have been asserted. This case appears to have become an issue in the nomination of Mr. Lee.

The allegations in Tipton-Whittingham, while disputed in some respects, are serious matters that the LAPD are committed to addressing. Issues of gender bias and harassment have been raised not only by these plaintiffs but also by independent and respected voices such as the Christopher Commission. The parties engaged in arms length negotiations for more than a year before a proposed partial consent decree was submitted for approval to the Los Angeles City Council and then the Court.

The proposed decree was presented to the federal magistrate only after being vetted by the Police Commission, the Mayor's office, the City Council and the City Attorney's office. While members of the Police Commission, including this Commissioner, and the Mayor's office initially objected to specific provisions of the proposed consent decree, those objections were fully heard and addressed before the decree was presented.

As you know, that proposed consent decree has not been approved by the Federal Court. In the meantime, the parties are engaged in mediation before Charles G. Bakely, Jr. in the hopes of reaching a complete settlement of the lawsuit. Hopefully, any settlement will ensure that the LAPD of the future is free of racial and gender bias and sexual harassment, and any consent decree will neither on its face nor in operation require or induce unlawful preferences. I hasten to add, however, that the proposed partial consent decree previously submitted to the Federal Court had that same objective.

As a final matter, in my role as Assistant General Counsel for Hughes Electronics responsible for labor and employment law matters, I have opposed Mr. Lee in employment litigation. I was then and continue to be impressed by his balance, ethics, intelligence and commitment to reaching practical solutions. In my view, he would be an outstanding addition to the Department of Justice.

Should you have any questions regarding the above, please do not hesitate to call me.

Sincerely,

T. WARREN JACKSON,
Vice-President.

OFFICE OF THE CITY ATTORNEY,
Los Angeles, CA, October 29, 1997.

Hon. TRENT LOTT,
Senate Majority Leader, Washington, DC.
Re: Bill Lann Lee Confirmation.

DEAR MR. MAJORITY LEADER: As an Assistant City Attorney for the City of Los Angeles—and opposing counsel to Bill Lann Lee in recent federal civil rights litigation—I read with concern the October 27 letter to you from the Speaker of the House of Representatives. I believe the Speaker has been misinformed about many of the facts set out in that letter, and therefore the conclusions he reaches about Mr. Lee's fitness for public office, and in particular for the position of Assistant Attorney General for Civil Rights, are unwarranted.

The Speaker's letter begins by asserting that Mr. Lee ''attempted to force through a consent decree mandating racial and gender preferences in the Los Angeles Police Department.'' This assertion is erroneous. In the course of representing the City of Los Angeles, I have for the past seventeen years monitored the City's compliance with consent decrees affecting the hiring, promotion, advancement, and assignment of sworn police officers. I have negotiated on the City's behalf two of those decrees. Of those two, Mr. Lee was opposing counsel on the first, and was associated with opposing counsel on the second. None of these decrees mandates the use of racial or gender preferences. In fact, each of them contains provisions forbidding the use of such preferences.

For the same reasons, the Speaker's statement that the use of racial and gender preferences ''would have been a back-door thwarting of the will of the people of California with regard to Proposition 209 (the California Civil Rights Initiative)'' is inapposite. Because the decrees with which Mr. Lee was associated do not call for racial or gender preferences, and in fact forbid them, these decrees do not violate the requirements or the intent of Proposition 209.

Of particular concern to me is the Speaker's reference to ''the allegation that Mr. Lee apparently employed dubious means to try to circumscribe the will of the judge in the case.'' Thus allegation is wholly untrue. The case being referred to is presently in litigation in the district court. Mr. Lee was not at any time a named counsel in the case, but was associated with opposing counsel because of his involvement in the negotiation of a related consent decree. Neither Mr. Lee nor any opposing counsel attempted in any fashion to thwart the will of the judge supervising the litigation. The matter had been referred by the court to a magistrate judge appointed by the court to assist in the resolution of the case. Each counsel had advised the district judge at all points about the progress of the matter. Upon reconsideration, the district judge elected to assert direct control over the litigation. Nothing in Mr. Lee's conduct reflected any violation of the court's rules, either in fact or by appearance.

Bill Lann Lee and I have sat on opposite sides of the negotiating table over the course of several years. Although we have disagreed profoundly on many issues, I have throughout the time I have known him respected Bill's candor, his thorough preparation, his sense of ethical behavior, and his ability to bring persons holding diverse views into agreement. He would, in my view, be an outstanding public servant and a worthy addition to the Department of Justice.

Very truly yours,

ROBERT CRAMER,
Assistant City Attorney.

CITY ATTORNEY,
Los Angeles, CA, November 4, 1997.

Hon. DIANNE FEINSTEIN,
U.S. Senator, Washington, DC.

DEAR SENATOR FEINSTEIN: As City Attorney of the City of Los Angeles I feel compelled to correct the inaccurate and defamatory allegations in the October 27th letter from Speaker Newt Gingrich about Bill Lann Lee.

The Speaker's letter charges that Mr. Lee ''attempted to force through a consent decree mandatory racial and gender preferences in the Los Angeles Police Department.'' That assertion is wrong. Mr. Lee participated in two lawsuits against the Los Angeles Police Department several years ago that were resolved by consent decrees, but neither decree mandates the use of racial or gender preferences. In fact, each of them contains provisions forbidding the use of preferences.

What is most outrageous about Mr. Gingrich's letter is his reference to ''the allegation that Mr. Lee apparently employed dubious means to try to circumscribe the will of the judge in the case.'' There is simply no truth to this allegation. The facts are these. This case, known as *Tipton-Whittingham*, is presently in litigation in district court. There are serious allegations of discrimination and harassment being made by the plaintiffs in this case who are women police officers in LAPD. Mr. Lee was not at any time a named counsel in the case, but was associated with opposing counsel because of his involvement in the negotiation of a related consent decree. Neither Mr. Lee nor any opposing counsel attempted in any fashion to thwart the will of the judge supervising the litigation. The matter has been referred by the court to a magistrate judge appointed by the court to assist in the resolution of the case. Each counsel had advised the district judge at all points about the progress of the matter. Upon reconsideration, the district judge elected to assert direct control over the litigation. Nothing in Mr. Lee's conduct reflected any violation of the court's rules, either in fact or by appearance.

Bill Lann Lee and I have been on opposite sides of the negotiating table over the years and we have not always agreed. Yet I respect him for his keen intellect, his profound sense of ethics, and his ability to negotiate an outcome that achieves justice and fairness.

The United States Senate should not countenance the kind of character assassination based on erroneous information that has occurred in this confirmation process. I'm glad I can help clear the record in this regard.

Bill Lann Lee is an outstanding lawyer who embodies the highest ethical traditions of that profession and will be vigilant in his defense of the Constitution and the laws of the United States. He should be confirmed as Assistant Attorney General for Civil Rights.

Very truly yours,

JAMES K. HAHN,
City Attorney.

Mr. LEAHY. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JOHN LUNDY

Mr. COCHRAN. Mr. President, I want to bring to the attention of the Senate the fact that one of our finest and brightest and best-liked members of staff, from the State of Mississippi, is leaving the Senate and going back to Mississippi at the end of this month to join one of the leading law firms in our State. I am talking about John Lundy, who is chief of staff for my distinguished State colleague, Senator LOTT.

John Lundy came to Washington in 1987 to work as a legislative assistant on the House side of the Capitol. He distinguished himself right away with his hard work, his ability to get along with staff members and Members of the House on both sides of the aisle, as well as work effectively with Senate staffers from our State and Members of the Senate.

He had a lot to do with the writing of the 1990 farm bill as a member of the staff of LARRY COMBEST, Congressman from Texas, who is a Member of the Agriculture Committee in the House.

John is originally from Leland, MS. He graduated from Mississippi State University in 1983 with a degree in agricultural economics. After graduation, he went to work as a research assistant at the Mississippi State University Delta Branch Agricultural Experiment Station in Stoneville, MS, near his hometown of Leland. He then worked for a while as a loan officer with a farm credit institution in the Mississippi Delta.

When he joined Senator LOTT's office, he became someone with whom I had an opportunity to work closely over the years. When Senator LOTT was elected majority leader, he made John Lundy his chief of staff. John has been one of my favorites and a good friend to me and to all of the Members of our delegation. We are going to miss him and his lovely wife, Hayley, very much, and their daughter, Eliza. They are moving to Jackson, as I indicated, toward the end of this month.

But I wanted to take this opportunity to let other Senators know about his decision to go back to Mississippi and to congratulate him on his distinguished service here in the U.S. Senate as a member of our staff and the House of Representatives staff as well, and to wish him all of the best in his new undertaking. I am confident that he will be a tremendous success in his new association with the law firm in Jackson.

We wish him well. We will miss him.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LANDMINES

Mr. LEAHY. Mr. President, in one of the newspapers I was reading this morning, there was an editorial speaking about the U.S. position in saying that they will work to lead an effort toward the demining of antipersonnel landmines around the world, an effort that is already well underway in a number of countries, which is supported partly by the United States in the millions of dollars in humanitarian demining efforts.

I agree with the President. I agree with the administration's efforts to seek more money for demining.

We have so many millions of landmines in the ground in 60 to 70 countries that nobody even knows how many landmines are out there. Very often the way we find out where they are is when a child or some other noncombatant steps on a landmine, touches a landmine, and is either crippled, maimed, or killed from the explosion.

We also know, whether these are $3, $4, or $5 antipersonnel landmines stuck in the ground, they can cost a considerable amount of money to take them back out depending on where they are—anywhere from an average of $100 on up to as much as $1,000 per landmine.

I agree that the United States, as the most powerful and wealthiest Nation on the Earth, should do everything possible to try to take landmines out of the ground. But I note the obvious, Mr. President. It is like trying to bail out the ocean, if you continue to put new landmines down.

Next month, in Ottawa, over 100 nations will come together to sign a treaty banning the placement and use of antipersonnel landmines. One of the most notable exceptions to the signers will be the United States of America. I think that is a bad mistake. I think if the United States wishes to have leadership and credibility on this issue they should do both—help in the demining, but do the right thing, and that is help stop further mining.

Until the use of antipersonnel landmines is treated the same way we treat the use of chemical weapons then we will continue to see them and we will continue to see the use of antipersonnel landmines against innocent civilians. They have become more and more—if not exclusively, at least primarily—a weapon against civilians. Worse than that, they are weapons that stay long after the war is over. Peace agreements are signed, tanks pull away, guns are unloaded, armies march away, and 5 years later a child on the way to school is destroyed and nobody even remembers who was fighting, nobody knows who put the weapon there.

I just mention, Mr. President, while I support our continued efforts to demine and while I take pride in writing much of the legislation to get the money for the United States to be involved in humanitarian demining up to this point, I note it falls short of the ultimate goal until we have a real ban on the use of antipersonnel landmines.

I yield the floor.

The PRESIDING OFFICER. The Senator from the great State of Florida.

Mr. GRAHAM. I appreciate the courtesies of my colleague and good friend from Vermont.

COMMERCIAL SPACE ACT OF 1997

Mr. GRAHAM. I rise today to speak in support of legislation which Senator MACK and I filed last night, legislation that will bolster one of the most important components of our Nation's high-technology economic future, the space industry.

For more than 40 years, my home State of Florida has been pleased, proud, and gratified to have been the launching pad for our Nation's exciting adventure in space. Our friend and colleague, Senator JOHN GLENN's historic *Friendship 7* mission was launched from Cape Canaveral. So were Neil Armstrong, Edwin Aldrin, and Michael Collins on their way to the first manned Moon landing.

For the last 16 years, the world has watched intently as dozens of space shuttle missions have started at the Kennedy Space Center.

But as we prepare for the increasingly high-technology, dynamic world of the 21st century, space will be more than just a place of exploration. In the 4 decades since the Soviet Union launched sputnik in October 1957, space has become a site for tremendous scientific innovation. Ball-point pens, velcro, and numerous other consumer products that make our lives easier are a direct result of the space program.

Medical research has also reaped tremendous benefits from our time in space. And satellite technology has led to revolutionary advances in the way we forecast weather, protect the environment, and communicate with each other.

Space may also revolutionize the way we transport goods and services and pursue other economic and business opportunities. In recognition of these advances, Senator CONNIE MACK and I are introducing the Commercial Space Act of 1997.

Cape Canaveral is also home to the Florida Spaceport Authority, which is set to launch its first commercial payload from Launch Complex 46 in January 1998. This will be a milestone event in our State's history, and the bill that I am introducing today aims to modernize the laws that govern the United States' emerging commercial space industry.

It is urgent that we develop a clear Federal policy for this important enterprise. For much of the last 40 years, our Nation's experiment in space has been in the exclusive domain of the National Aeronautics and Space Administration [NASA].

The legislation I am offering today recognizes that space is now a public

and private sector place and enterprise. It aims to create a stable business environment for an industry that employs thousands of Americans and generates billions of dollars in economic activity each year.

Our bill pursues this goal in several important ways.

First, it will reduce the bureaucracy and redtape that plagues our regulation of the commercial space industry. Currently, the oversight of space-related businesses is scattered among multiple federal agencies, and burdens businesses with complex, confusing, and often conflicting rules. It is not an environment that encourages progress and innovation.

This bill takes the first step toward clarity by requiring each relevant federal agency to clearly state its requirements for commercial space licensing. That requirement will help space businesses in their efforts to raise capital, develop a consistent business plan, and create new job opportunities within the commercial space industry.

Second, our bill encourages federal agencies to act in a more efficient manner by increasing the private sector's involvement in servicing and launching space hardware, in addition to their current role in building rockets and satellites. This will bolster the expansion of the commercial space industry, while at the same time reducing Government costs and saving tax dollars.

For example, this legislation would call for NASA to look at the role the private sector may play in operating, maintaining, and supplying the international space station. It would also encourage the conversion of old ballistic missiles into launch vehicles, a use that will reduce storage costs and provide for less expensive commercial space launches.

Finally, it is imperative that we update existing Federal law to reflect the rapid pace of technological change. Mr. President, we cannot hope to prepare for the high-tech 21st century if the Federal Government maintains a 20th century mentality. Our laws should be flexible enough to adapt to a world in which new science and technology is created every minute.

These goals will be difficult to achieve, however, if we do not recognize the role of State and local governments in reducing space costs. This is especially relevant to Florida, I am hopeful that our legislation will spur a robust and energized commercial space industry. Within 8 years, the number of launches in Florida are expected to double. But this potential growth can only be achieved if there exists a productive working relationship among all entities involved in the commercial space industry, including state and local governments.

Mr. President, I would like to take a moment to tell you exactly what this legislation will accomplish:

This bill will require NASA to submit a report that identifies and examines the prospects for commercial development, augmentation, or servicing of the international space station by the private sector. Private sector involvement in the commercial space industry is likely to reduce the costs of operating, maintaining and supplying the space station and will allow State governments to act as potential brokers in reducing space station costs.

We amend the Commercial Space Launch Act and to give the Federal Government the authority to license commercial space reentry activities. This is an essential portion of the bill. Without this legal authorization, commercial reusable launch vehicles will not be allowed to re-enter the atmosphere, a restriction that would stymie the realization of important technological developments and investments by the commercial space industry.

This bill reaffirms our Nation's plans to make the Global Positioning System [GPS] a world standard. GPS is a space-based system that individuals can use to determine their precise position on Earth. Although it began as a military/defense system, the GPS applications have expanded to other sectors. In addition, foreign governments are interested in entering this lucrative global market. Therefore, in an effort to protect our economic interests and our national security, it is imperative that the we encourage our President to enter into regional agreements with foreign governments to secure U.S. GPS as the unquestioned global standard.

The legislation further requires the Federal Government to purchase both space hardware and transportation services from the private sector. This will encourage innovation within the commercial space industry, while simultaneously promoting greater cost efficiency and protecting our national security.

This legislation allows the conversion of excess ICBM's into space transportation vehicles. These missiles cannot be used for defense purposes due to the START treaty. The conversion of these missiles could save taxpayer dollars by eliminating storage costs and providing cost effective launches for small scientific and educational payloads.

Mr. President, I was extremely pleased when the House passed its version of this legislation earlier this week. It is my understanding that this legislation will be a priority for the Senate Commerce Committee when Congress returns from recess in 1998.

I look forward to working with Chairman MCCAIN, subcommittee Chairman FRIST, my colleague, Senator MACK, and other members of the committee and the Clinton administration, to enact this important commercial space legislation.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. GREGG. I ask unanimous consent the period for morning business continue until 2:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET SURPLUS AND PAYROLL TAX BURDEN

Mr. GREGG. Mr. President, I rise to address an issue which has far-reaching concerns for our Nation. Many of our colleagues have heard of the improving economy and have participated in the improving economy and recognize as a result of this improving economy it is likely that the Federal Government will incur a budget surplus in the very near future. This comes about because of a lot of hard work by this Congress, especially this Republican Congress, in controlling the rate of growth of the Federal Government. It is something that is unusual, obviously, not having occurred in the last 25 years.

Not only will we have a budget surplus, but it is projected by OMB that the budget surplus will continue well into the first decade of the next century.

So, I think that we need to discuss how we address this issue. This is an unfamiliar situation, as I mentioned, for Washington. We certainly do not have much experience in dealing with surpluses so there is naturally some perplexity as to how best to address it. To my mind the answer is pretty clear: The surplus should result in relief to the American taxpayers.

Needless to say this is the right answer on economic grounds. If the Government takes in more revenue than it needs to finance its operation, the answer is not for the Government to spend that; rather, it only makes economic sense to return the extra revenues to the private economy that bears the burden of supporting the Government. Not only that, but in this particular case, the appropriateness of tax relief could not be more clear. Let none of us forget what has enabled Congress to accomplish this goal of balancing the budget. It has in large part been the dramatic growth of the economy.

If the private sector in this country had not come through with a surge of productivity, then the budget negotiators might not have been able to reach the agreements necessary to accomplish a surplus to reach a balanced budget. It would, therefore, be ungracious of us, at the least, not to return that surplus to the taxpayers who have earned it.

I rise, Mr. President, today to voice a specific hope—that this Congress will consider, when that time comes, when we have reached a surplus, including a cut in the payroll tax as the appropriate way to address the returning of this surplus to the American taxpayer.

There are several reasons for this—all of them, I believe, noble. First of

all, the payroll tax is the most regressive component of our tax burden. There are no deductions, no personal exemptions in figuring of the payroll tax. It's assessed directly on the first dollar of workers' wages, and from there it goes upward until it reaches the wage cap.

Moreover, the payroll tax has been the fastest growing component of the Federal tax burden. When one includes the employer's share of this tax, we find that the majority of Americans pay more in payroll taxes than they do in income taxes. The payroll tax has grown dramatically from a level of approximately 1 percent for each employee and employer a little more than a generation ago, to today where it is approximately 15.3 percent. So while Federal revenues have stayed roughly constant as a percentage of the National economy, an ever-larger proportion of the burden of taxes has been carried by the wage earner in the form of payroll taxes.

But an equally important point is that these payroll taxes were never intended to finance the general operations of Government, as it is doing today. Quite the contrary. The payroll taxes are supposed to finance the operations of the Social Security system and the Medicare system.

I know my colleagues do not need to be reminded of the enormous unfunded liability that exists with respect to the long-term obligations of the Social Security and Medicare systems. These enormous payroll tax burdens, I regret to say, are not being used to reduce that long-term liability. Surplus payroll taxes today are used to buy Government securities, which must be redeemed by the Federal Government in the future to pay back Social Security programs. That money will, of necessity, come from taxation again, to create the general revenues necessary to redeem the bonds.

A review of the figures is startling. Right now, Social Security's total income is $451.3 billion and total outflow is $370.8 billion. This leaves a surplus in the Social Security funneled of $80 billion. Of that total, $43.6 billion is in the form of interest payments by the Federal Government to itself, and the other $36.9 billion represents the annual operating surplus in the Social Security trust fund.

So each year, we run an annual operating surplus in Social Security that is slightly more than 1 percent of the national payroll. That surplus is combined with interest payments to increase the size of the Social Security trust fund. That trust fund is projected by the trustees to grow each year until it reaches a peak value of $2.89 trillion in the year 2019.

I ask my colleagues to think about what that $2.89 trillion means. That $2.89 trillion is not only assets owned by Social Security; more importantly, it is a debt owed by the Federal Government to Social Security. In order to pay the benefits to future beneficiaries, the Federal Government will need to tax the American public, through general tax revenues, to come up with this $2.89 trillion.

Every year that we collect these surplus payroll taxes, we create several significant events. We add to the trust funds, and thus we add to the debt owed by the Federal Government. We take payroll taxes from hard-working Americans today and, instead of really saving them, we convert them into a tax burden on the Americans of tomorrow. This certainly is no way to run a government, a country—or a railroad, for that matter.

In order to fully understand the bizarre situation in which we are placing ourselves, I ask my colleagues to consider the trustees' projections for the period 2012 through 2019. In the year 2012, we will see the first year of operating deficits within the Social Security trust fund. That means that, in that year, annual Social Security revenues will amount to less than promised benefits.

In other words, it will require cash from the general Treasury in that year just to meet the current benefit payments to Social Security recipients.

Yet, in that same year, interest compiled by the Social Security trust fund will be an enormous $140 billion. So we will need to take $9 billion of that interest payment from the general fund and use it to pay beneficiaries immediately. The other $131 billion will be credited to the Social Security trust fund, so that the trust fund will grow, theoretically at least, from $2.2 to $2.4 trillion in that year, even as the program is running annual operating deficits. This obviously doesn't work.

Think about what will be happening at the same time. We will need money from the general Treasury just to pay current beneficiaries, and billions in assets will be added to the Social Security trust fund—but that doesn't exist—and the trust fund, continuing to grow, will earn even more interest in the next year, to be paid from the general Treasury.

So each year—from 2012 through 2019—the Federal Government will make larger and larger contributions to Social Security, in current benefit payments and interest payments. In the year 2018, for example, the Social Security operating deficit will be $147 billion. That means it will have to pay out $147 billion more than it takes in. So, of the $171 billion in interest payments that will be due that year from the Federal Government, $147 billion will be needed right away to pay benefits, and only the remaining $24 billion will continue to build the trust fund.

It's in the year 2019, however, that the roof really starts to fall in. Then, even with all the interest payments from the general Treasury and all the current payroll taxes and benefit taxation, there will still not be enough money to pay the Social Security beneficiaries, and we will have to begin to redeem the principal on Social Security trust fund T-bills in order to pay the benefits.

Every year that we continue to collect surplus payroll taxes, and thus swell the size of the trust fund, is a year that we add to the unfunded liabilities that we are piling on the heads of our children and their children, the American taxpayers to come.

It is largely for this reason that I believe that payroll tax relief is needed. I have introduced a piece of legislation, S. 321, that would give 1 percent of the payroll tax back to the wage earners; in other words, it would be a tax cut, to be saved in an individually owned retirement account. This would give us a Head Start on prefunding some of the massive liability, by moving it off the Government ledger and into genuine savings, because, you see, the basic problem here is that the Social Security system is a pay-as-you-go system. That creates a huge unfunded liability. Until we start to prefund that liability, we are not going to get out from underneath that unfunded liability. The best way to prefund that liability is to take the surplus that we are presently running in the Social Security system, cut taxes, give wage earners back their money, and allow them to save it for their retirement so that they have a savings account, identified to them, in their name, which they can use to benefit them at retirement and, thus, turn a contingent liability into an actual savings vehicle.

If we were to pass this bill today, S. 321, we would not solve all of Social Security's problems, but it would eliminate approximately 78 percent of Social Security's projected insolvency. That is a pretty good chunk. We would, however, vastly reduce the burden on tomorrow's economy. For example, whereas, under present law, Social Security will absorb more than 17 percent of the national payroll tax base by the year 2030, under this legislation, it would absorb closer to 14 percent. That is a major drop—3 percent—in our national economy, which will at that time be multiple trillions. That is part of the gain that comes from prefunding Social Security's liability, instead of simply continuing to collect and spend surplus payroll taxes, leaving tomorrow's obligations for another day.

It is critical, as we debate the issue of the surplus which is coming, that we make a thoughtful decision on how to handle it. I think a thoughtful decision involves some obvious facts. What is our most significant, looming fiscal problem as a nation? It is the burden of our pension plans, which are unfunded. What is the most significant unfunded pension plan in America? It is the Social Security system.

The second logical effort that should be addressed in addressing the surplus is, who gave us the money in the first place? Who has the best right to claim that money? That is clearly the taxpayers of America. We can address both of these issues by following the course that I have outlined here today—cut

the Social Security tax, return it to the wage earner, allow the wage earner to start to preinvest, to presave for their retirement, with the taxes which are now going into a fund that is on a cash-flow basis. The taxes are now being used to operate the Government, the general Government, instead of being used and identified as the savings of the Social Security recipients. This is a good policy approach to what is looming as one of the major policy debates that we will confront as a Congress as we move toward the next century.

Mr. President, I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from the great State of Illinois is recognized.

Mr. DURBIN. I thank the Chair for recognizing me. I thank my colleague for his statement on the future of Social Security. He is recognized in this Chamber as one who has studiously addressed himself to this and many other challenges.

I hope that next year my colleague will lead a bipartisan effort to take a serious look at the future of Social Security and Medicare, and so many entitlement programs that we worry about, in terms of long-term solvency. I thank my colleague for his remarks. Though I may not agree with every particular, I certainly do respect the fact that he continues to stick with this issue through thick and thin, as he should. The Senate should address it, and, hopefully, we can do it together in a bipartisan fashion.

Mr. GREGG. Mr. President, I appreciate that kind comment. The Senator from Illinois has certainly made a serious effort in a number of areas in this Chamber. I have enjoyed working with him, for example, on the tobacco issues. And I look forward to working with him on this. I also believe this must be resolved in a bipartisan manner.

JUVENILE CRIME

Mr. DURBIN. Mr. President, I am, as you know, concluding my first year in the U.S. Senate. Within a few days, we may be able to go home, and the sooner the better.

As I reflect on my first year, I think back on one particular issue, which I didn't anticipate being of great importance and now has turned out to be of major importance on my legislative agenda. I was appointed to the Senate Judiciary Committee and, as a result of that appointment, I decided to really focus on the issue of crime, particularly juvenile crime, in the United States.

This past year, I made my visits back to Illinois coincide with an effort to study the problem of juvenile crime. During the course of 1997, I visited jails and prisons, detention centers, have met with judges and law enforcement officials, have been to drug rehab facilities, have been to many, many schools in the State of Illinois, have met with young people and their parents, and I have tried as best I could to come to grips with some of the problems that we have in this Nation as it relates to crime.

I find it very curious to consider the following: The United States has one of the strongest economies in the world. I daresay that you could not travel across the world and find another country so widely admired as the United States. No matter where you go, people talk about us—the way we live, our music, our art, our culture, our economy. We should take great pride in that. We also know for a fact that, if we were to lift all restrictions on immigration and say the borders of the United States are wide open, we would be inundated with people from all over the world who would walk away from their cultures, their families, and their traditions, many of them just hoping they would have a chance to come to America and be part of this great democratic experiment.

Having said that, though, the one thing that is curious to me, despite all of these positive things, is, why is it that the United States of America has the largest percentage of its population imprisoned, incarcerated, of any country in the world except one—Russia? Why is it, over the last 10 years, we have seen such a dramatic increase in incarceration and imprisonment in America? Is there something genetic about living in America that leads more people to commit crime? I question that. I don't think that's true. But what is it about our country that is engendering more imprisonment and more incarceration?

Now, let's be fair and look at both sides of the ledger. We have found that, as incarceration rates have gone up and the State and Federal prisons have grown in size, the crime rate has gone down.

So there is a positive side to this. If people who are committing crimes are being taken off the streets to make those streets safer for our families, our communities, and our neighborhoods, that is a positive development. I do not want to suggest at all that we should step back from that commitment. If someone is guilty of crime, they should do the time. It is not just the slogan; it is a fact. And in America, more and more people are doing time.

But is there an answer to this dilemma, or challenge, which goes beyond the obvious, the enforcement of crime, the imprisonment of criminals? Can we as a nation aspire to a goal where we see a continued reduction in crime and a reduction in incarceration? Because imprisonment is a very expensive undertaking for a society. First, we measure it in dollar terms. In the Federal prison system it is probably $20,000 a year to keep a prisoner there. Roughly the equivalent of what it takes to go to some of the best colleges and universities we spend each year to put men and women in prison and keep them there at the State level. It goes as high as $30,000 in my own State of Illinois. It is an expensive commitment.

Don't forget this important fact. There is not a person in prison today who didn't get there because he or she created a victim. So in order for that process to work its way through, someone was victimized. Someone may have been killed, assaulted, raped, or burglarized—whatever it might be.

So when we talk about reducing prison populations, it is more than saving money. It is also a question of sparing victims, but doing it in a way that still reduces crime.

I have taken a look in my State at some of the things that are being discussed. I have talked to some of the leaders across the Nation. I have come up with some things that I hope this Congress can address on a bipartisan basis. Let's start at the very beginning.

We now know through research, which has been proven time and again, that one of the most critical areas in the life of an individual is the very first few months of life. We used to think that those gurgling, babbling little kids were so cute. We would diaper them, feed them, laugh at them, try to guess who they looked like in the family, and we didn't realize that while we were doing that, this child's brain was developing at a rapid pace. In fact, in the first 18 months of life, some 75 percent of a child's brain has developed.

The reason I raise that is because I think there is a link between the development of our children, how well they develop, and what they turn out to be. My parents believed that. I believe that. My wife and I did, as do our children. I think it is a fact.

When I visited the Cook County Juvenile Detention Center about 6 months ago and saw the hallways filled with teenage kids, mainly boys, walking back and forth, it looked like a high school with 14- to 15-year-olds filing back and forth in uniform. But, of course, these weren't just high-school-age kids; these kids had been convicted of a crime.

I asked the prison psychologist. I said, ''Who are these children?'' He said, ''Senator, these children I could describe in about four or five characteristics.'' First, they come from broken homes, almost invariably. Second, they have a learning disability. They were falling behind in school. They weren't learning as well, either because of poor nutrition before they were born in their mother's womb, or poor nutrition after they were born, exposure to narcotics, exposure to abuse. These children are basically ''unattached.'' That is a term that is used in psychology about which many people would just shake their heads and say, ''How could this be?'' But it basically means a child coming into this world does not receive the most fundamental and basic emotional bonding with a parent or a loved one.

How many parents automatically, instinctively grab that baby, pull the

baby up to their arms and cradle it while they are feeding the baby, nursing the baby, feeding it with the bottle, with the warmth of the mother, or even the father, and a little communication going on there as part of this bonding attachment? These kids missed that. These kids didn't go through this emotional maturation that leads to a normal functioning adult, and, as a sequence of this, they are missing a piece of that.

He said there is something else about these kids, too. He said these kids ''don't know how to resolve conflicts.'' You ''Dis me, I kill you. I've got a gun to do it.'' In America everybody has a gun to do it, unfortunately.

So when I started looking into these ''problem children,'' as we might call them, and then back to the beginning, I started thinking about what we can do as a society to address it. Clearly, we have to start at the beginning.

Now, with more than half of the mothers in America working and relying more and more on custodial care, whether it is day care or babysitters, shouldn't we be asking a very fundamental question as to what kind of care our kids are receiving when they are in custodial care?

I don't think it is any accident that this au pair case in Massachusetts attracted so much national attention. It is a sad reality that we lose children in America every day to abuse and neglect. Yet, this case, which was so prominent in the headlines, captured America's attention for weeks, I think, because more and more people instinctively are worried about their own children in custodial care. You leave them there 8 or 10 hours a day. What is happening to them? Are they safe? Are they being treated right?

So, when the President calls a national conference on child care, I hope that we will look beyond the fact that it is a political setting to the fact that this is a very real family challenge. It is interesting in this Nation that we decided that public education was so important to the future of this country that we are going to make a public commitment to it. We understood that some wealthy parents could afford to educate their own children, but most parents could not. So we said, if we are going to have well-educated children who become good citizens, we as a nation will commit to them. We will commit at every level—local, State, and Federal level—to make sure we have a system of public education.

We have a new challenge, my friends. What about the years before kindergarten? What about these developmental years? What commitment are we prepared to make as a nation to make certain that those developmental years are right?

Some children are blessed to have a parent who can stay home and raise them. I count myself as one of the fortunate parents. My wife was able to do that. I don't think we could have given our children a better gift than to have her there every day while they were growing up, reading to them, living experiences with them, teaching them. But in some homes that can't happen for economic reasons and other reasons that a parent can't stay home.

So, that parent wants to make sure that his or her child also gets good care. You look at day care in America today, and it is a very mixed bag. There are some extraordinarily good day care centers—some private, some public. But let's be honest. There are some that aren't very good at all. There are some that are mere babysitters—diapers, bottles, and little more.

You look at the training requirement. In Illinois, for example, a day care worker needs 2 years of college—an associates degree. That is good, but it could be a lot better. We could be making sure that the men and women in day care really understand what is going on in that young mind and bring these children along as they should be. But it will cost money. You can't bring people in for that kind of professional training and professional care without paying. Working families say, ''That is great, Senator; a great idea. Who is going to pay for it? Who will pay? What is the bottom line?'' Honestly, we expect the families to contribute, and they do—many of them making great sacrifices for day care. But clearly there must be more. We as a nation must make a contribution to this, too, to make certain that these children have a fighting chance.

There is another element that I think is important, too. As I traveled around Illinois, I visited a program called Lincoln's Challenge. It is in 15 different States now. The National Guard in Illinois runs this program and invites in 400 students who are high school dropouts in the State of Illinois. They must come voluntarily. They must be between the ages of 14 and 18. They must be drug free and not pregnant. If they then come into the program, they are in for 10 weeks of military style training. They are in uniforms. They shine their shoes every morning, make their beds. It is ''yes, sir''; ''no, sir'' and they go to class. These high school dropouts that other people have given up on are brought into classrooms. In the course of 10 weeks, 71 percent of these kids, high school dropouts, earn the GED degree—in 10 weeks. All of a sudden, they are out of the neighborhood. They are focused. They are in a disciplined environment. And they have people who care around them. It works.

Kids who would have been casualties on the streets of Chicago, or Springfield, now have a chance because of one other factor. One of the important features of this program is one that I have come to believe is essential if we are going to deal with reducing crime and saving our kids. When those young men and women finish this program, they go back to their hometowns, but with one important difference. Each one has an adult mentor. Each one has an adult outside their family that they can call on for advice or encouragement or support, for counsel. ''How am I going to get a job? Can I get into the Army? What should I do next if I want to go to the community college?'' So there is somebody who cares. Of all of the programs I have seen, the most successful I have run into time and again—whether government programs or private sector—are mentoring programs.

We had a juvenile court judge from the State of Georgia, from the city of Atlanta. I am sure Senator WELLSTONE remembers when she spoke to our conference of Senate Democrats. She told the story of coming out of private law practice and becoming a juvenile court judge and going back to the big law firm in Atlanta and saying, ''I want you lawyers, whether you are corporate or criminal lawyers, to volunteer to come to my courtroom and represent these kids.'' She knew the kids would get better representation. She also knew something else. Relationships would begin. Attorneys meeting young men and women would start to care. Those young men and women, sensing that caring, would finally have a voice that they could listen to, someone they could talk to.

So, I have come to believe that, as we talk about reducing crime and helping kids, it is not just early childhood development, but making certain that kids, particularly those facing problems, have an opportunity for mentoring.

We also need to think about some basics. Why in God's name do schools quit at 3 in the afternoon? This might have made sense 50 years ago when kids went back to Ozzie and Harriet settings, and mother was home with milk and cookies. But, boy, that is the exception, not the rule. Most kids who are turned loose at 3 in the afternoon have two options: television or trouble. We have to start thinking about school days that reflect the reality of America's families.

Most American families come in at probably 5 o'clock or 6 o'clock, if they are lucky, weary from a day of work. That is the time when they can finally give their children a little bit of attention and, hopefully, have some good time with them. But what happens between 3 and 6? What is happening with these kids? In more communities, more and more that I visit, schools are doing things after the regular school hours: some recreation, some arts and crafts, and music, and some, of course, regular school activities, but a safe environment. Shouldn't that be the first rule that we as a nation adopt? Our kids are going to be safe all day long?

One of the last points I want to make is about prisons themselves. I visit a lot of them. In fact, I went down to the Marion Prison in southern Illinois. It is rather infamous—or famous, depending on your point of view—as having been in a lockdown for almost 5 years now. Two prison guards were killed, and, as

a result, most of the prisoners who are brought there spend most of their time in their cells. In fact, the only prisoners there have, first, committed a violent crime to get into prison, and, second, broken a law once they were in prison. So these are a pretty tough bunch of characters.

Listen to what they do when they come to the Marion Federal Prison. The first year of their life there is very predictable. The first year of their life, out of a 24-hour day they will spend 23 hours of that day in a cell alone. They get 1 hour to come out of their cell, but with no socialization. They don't speak to anyone. The guard watches them as they walk around the yard. If they get through that year and they have not broken the rules, then they start bringing them out and giving them a chance to take a little course here on this, or go to a prison industry, or maybe eat in a room with some other prisoners.

They have a dramatic success rate. You can imagine this is pretty tough. It is one of our toughest Federal prisons.

As I talked to the warden and the officers there—and I want to give high praise to them because I think they run a very good operation—and talked to people in other prisons about who these prisoners are and whether they are likely to come back, there is one factor that just comes roaring through at you. That factor is this: If you invest in educating these prisoners while they are in prison, the likelihood that they will return to prison is cut dramatically. There is one in four chances that they will be recidivists, commit another crime and come back, if you educate them.

Unfortunately, we as a nation for whatever reason, budgetary or otherwise, have not made this commitment to education. We somehow think that we are punishing the prisoners by not making education classes available so that they can become literate, so that they can develop a skill. I am not so sure we are punishing the prisoners as much as we are punishing ourselves. These prisoners, most of them, will be back on the street and without an education and without basic skills, I am afraid they are destined to commit crimes. In fact, statistically we know they are, by a rate of 4 to 1, from those prisoners who pick up education and skills. We have not made that commitment in our prison system and we should. It is absolutely essential that we do it.

I went to the juvenile maximum prison in Illinois and met with the principal of the high school there. And I looked at all of the young men who were in the classrooms at this prison, and I said, ''How is this working out?'' He said, ''Well, amazingly well. Most of these young men''—all men at this prison—''missed something in their basic education and became so frustrated that they basically dropped out; they stopped paying attention and fell behind.'' He said, ''We test them to find out what they missed. We go back,'' he said, ''and fill in that gap and they come roaring forward toward a GED.'' To many of them, it is sad that it took this track for them to reach this fulfillment, but it is a fact and one that we should reflect on, how time spent in prison, if it is done constructively, can start to turn a life around, can make this a safer America and reduce the number of victims that we might see.

People think that in an age where all we talk about is balancing the budget many of us in Washington really don't reflect enough on some of the important social goals we should have in this country. I don't think there is anything more important than our children, and if it means making certain that we have quality day care for childhood development, if it means making certain that we are committed to a school day that reflects the reality of our families, if it means making certain that the kids who need someone to talk to have an opportunity, whether it is through Big Brother, Big Sister, the Boys and Girls Clubs, whatever it happens to be, if it means making certain that our prison system now starts to be more responsive to real human needs, I think those are things we as a Senate and a House should address.

I hope that next year, even in a busy election year, we have the time to do just that.

I want to address two other topics very quickly. I see my friend from Minnesota is here. I just want to address them very quickly because they are important and I hope somewhat timely.

NOMINATION OF BILL LANN LEE

Mr. DURBIN. Mr. President, late this week we will have an executive committee meeting of the Senate Judiciary Committee. We will return to a nomination made by President Clinton, one that I think has become a source of major controversy. The gentleman's name is Bill Lann Lee. Mr. Lee has been named by the President to be head of the Civil Rights Division of the U.S. Department of Justice.

I had never met Bill Lann Lee until about a month ago when he came by my office. He made a very positive impression in the short time we had to speak to one another. Then I read his background and sat through his confirmation hearing, and I want to say that I hope Mr. Lee will get the chance he deserves.

Bill Lann Lee is the son of Chinese immigrants who came to this country to New York virtually penniless. His mother and father started a hand laundry. He and his brother, who is now a Baptist minister, worked in that laundry with their parents. His mother sat, as he said, in a front window of the laundry every day at a sewing machine. His father was back doing washing and ironing, refusing, incidentally, to teach his sons how to iron. That's the major skill in a hand laundry. He didn't want his sons to know how to iron. He didn't want them to work there. He wanted them to think beyond the laundry.

When World War II started, Bill Lann Lee's father, who was 36 years old and could have escaped the draft just by claiming an age deferment but did not do it, volunteered and went in the Army Air Corps and had a very interesting experience because he came back from the war to his family and said, ''That was a good thing to do, not just for the Nation but good for me.''

For the first time, Bill Lee's father said, he was treated like an American, not like someone from China living in America. But when he came back from the war, as a returning veteran after World War II he found that job discrimination and housing discrimination was still very, very strong against Chinese-Americans. So he returned to his hand laundry but more determined than ever that his sons would have a better chance.

When Bill Lann Lee reached college age, it happened that Yale University decided they wanted to diversify their student body. They gave him a chance and said come to Yale and see if you can prove yourself. Well, he sure did. He graduated from Yale with high honors and then went to Columbia Law School and graduated with high honors.

With that kind of background, Bill Lee could have easily gone with a major law firm in New York, Los Angeles, wherever he happened to want to live, but he didn't. Bill Lee had learned a lesson in life, a lesson from his parents, and he decided that he wanted to fight discrimination. So for 23 years he has worked for the NAACP legal defense fund filing lawsuits when people are discriminated against.

The interesting thing about it is, when you think of these lawsuits, many times they are the most controversial lawsuits you can imagine. You know the headlines in the papers when they start talking about housing questions and school questions and questions involving gender or race or religious persuasion. Those are tough cases. But out of 200 cases that Bill Lee handled, only six ever went to trial. He was able to work out agreements in all the other cases.

In fact, one of his leading opponents, Richard Riordan, who is the Republican mayor of Los Angeles, wrote a letter about Bill Lee and said, ''I was on the other side of a lawsuit, and I want to tell you something. We never would have settled it without Bill Lee there. He practices mainstream civil rights law.''

I tell you, my friends, he is exactly the kind of person we need serving in the Department of Justice as the representative of the Office of Civil Rights. But I am sorry to report to you that in the last week some extreme political folks have set their sights to try to nail Bill Lee. They are trying to stop his appointment as the head of the

Civil Rights Division, and that is an unfortunate development. It is unfortunate because, first, all he is asking is to be judged fairly. That is all he has ever asked in his life. And second, the things they are saying about him really do stretch the truth.

One of the leading conservative columnists in America, George Will, a man whom I really respect not just because he was raised and went to school in Illinois but because I think he is a pretty bright fellow, wrote a column in the middle of October and said we should turn down Bill Lee as ''a payback''—his words, ''a payback''—because the Senate Democrats, when they controlled the Judiciary Committee, turned down one of the civil rights appointments of a Republican President 10 years ago.

Please, let us not do that to Mr. Lee. Let us not do that to the Senate. Let us give him his chance to stand on his own feet and have an opportunity to serve this country. And so I hope those of you who think that when the Senate goes home and the House adjourns our work is done will realize there are still many men and women waiting for confirmation and one of the most important and highest is Bill Lann Lee. He would be the highest-ranking Asian American ever appointed, and I am glad that the President has named him and I hope that we can find just two, just two Republican Senators on the Judiciary Committee who will join the Democrats in supporting his nomination.

CONSOLIDATION OF FEDERAL FOOD INSPECTION SERVICES

Mr. DURBIN. Mr. President, yesterday I introduced with Senator TORRICELLI a bill, which I hope the Senator from Minnesota will join me in sponsoring, that would consolidate all of the food inspection services of the Federal Government in one independent agency.

Mr. President, 33 million Americans each year have some sort of a foodborne illness, and out of that number some 9,000 will die. You read about the cases, whether it is E. coli or salmonella. We have a good food inspection system but it can be much better. Our food inspection system evolved from Upton Sinclair's novel ''The Jungle,'' when we decided the Federal Government had to step in and make sure the food, meat in particular, that came to our table was safe for our families. But now I am afraid we have gone overboard. We have 12 different Federal agencies involved in food inspection—12—6 in a major way.

I am joining with Congressman VIC FAZIO of California to consolidate these into one independent agency which will be guided by the best science in keeping food safe for Americans. I hope that this, too, will be part of our agenda next year when we return to Washington, DC. It is an important issue, not just for the industries that are affected but for every family that wants to be certain when they buy that meat or poultry, fish or whatever product it might be, fruits and vegetables and beyond, it is safe for their family to consume.

Mr. President, I yield back the remainder of my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Minnesota.

Mr. WELLSTONE. Might I ask what the parliamentary situation is?

The PRESIDING OFFICER. It is the Chair's understanding we are in morning business. Senators are allowed to speak for up to 10 minutes.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be able to speak for 20 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WELLSTONE. Before I start, I also wanted to find out how long we will be in morning business and whether or not there will be opportunities to introduce amendments to the fast-track bill?

In other words, I understand the amendment will be laid aside, but I want to know whether there are opportunities to introduce the amendments to fast track.

The PRESIDING OFFICER. That is a parliamentary issue that will be handled by the majority leader. We are not prepared to answer that question.

Mr. WELLSTONE. I will just say in the Chamber and I will check with the leader, I do have an amendment on human rights that I would like to offer. We may or may not get to fast track, but this would be an opportunity I think to have the discussion.

WELFARE, HEALTH CARE, AND CAMPAIGN FINANCE REFORM

Mr. WELLSTONE. Mr. President, I wanted to take this time Sunday afternoon as we approach the end of this session to talk about some unfinished business for the Congress and I think for the Nation. I really was moved, and I do not usually use that word, by the eloquence of my colleague, Senator DURBIN, from Illinois. As I came in, I heard Senator DURBIN talk about children and talk about early years and talk about early childhood development and talk about whether or not we as a nation are going to make a commitment to affordable child care.

I want to talk about a really difficult issue for the Senate, for the Congress, and I think for the White House, and when we come back for me this will be one of the first items of business. I want us to have discussion and I would like to see whether or not we would be willing to perhaps take some important action.

I am talking about the bill that was passed which was called welfare reform. Mr. President, some of what was in that bill represented over $50 billion of cuts in the name of deficit reduction in the major food nutrition program in the country, food stamps—20 percent cut for families, most of them working families, most of the recipients children. And the other part was the cuts in benefits to legal immigrants, some of which has been corrected, some of which has not.

What worries me—and I have traveled the country and spent quite a bit of time in low-income communities. I haven't just focused on welfare, but I have been to the delta in Mississippi with Congressman BENNIE THOMPSON; I have been to eastern Kentucky, to Letcher County, Whitesburg, KY; I have been to Chicago in housing projects, and, of course, I have been in Minnesota, both urban and rural, and I have been to L.A., East L.A., and Watts. One of the things that worries me is that I see in many articles and too much of the media coverage and certainly too much of what I hear from both Democrats and Republicans in Washington that welfare reform has been a success as defined by reduction of caseload. Any Democrat, any Republican, or any fool can knock people off the welfare rolls. That has nothing to do with reform. The only way reform can be defined is not by reduction of caseload but by reduction of poverty. Are these families, in the main headed by women and children, better off?

I heard my colleague from Illinois talk about child care, and if my colleague was here I would tell him about some just very emotional experiences that I have had, meeting with some of the women who have now been told they are to work, and they work. But their concern is about what happens to their children. You know, just because they are poor, just because they are welfare mothers, doesn't make them, or doesn't make their children, any less worthy, any less important.

In Los Angeles, for example, in L.A., one city, they have a waiting list of 30,000 families for affordable child care. That is before the welfare bill. The question I ask colleagues is, where are these children? Fine, the mothers are now working. Do we know where the children are? Where are they? Who is taking care of them? Is it developmental child care? Is it just custodial? Or are they even in harm's way? We don't know. But we should know. We passed the legislation.

I met a woman, and this story of this one mother unfortunately is the story of other mothers. She said to me, ''I want to work.'' By the way, almost all the people I meet want to work. That's a big thing to people in our country, to be able to work and make a decent wage and support your family. And also to be able to give your children the care you know they need and deserve. But I am meeting some of these mothers. We told them we would sort of delegate this to the States and they would work.

Here is what they say to me, what this one mother in L.A. said. I then visited actually where she lived, public

housing in east L.A. She said to me: ''I want to work but I am so frightened because my first grader goes home alone every day. I worry about what happens to her from the time she leaves school to when she gets back to the apartment''—public housing. ''There are gangs, there is violence. I tell her to go into the apartment, lock the door, and don't take any phone calls.''

I would like to ask Senators, how many of you would like for your first graders, whether they are your children or your grandchildren, to go home alone? Actually, to go home to wherever you live, much less in the neighborhoods and communities that are so dangerous. In the debate that we had on welfare reform, did anybody ever talk about these children? I never heard a word.

We talk a lot about early childhood development, which is very important. We talk a lot about after-school programs for teenagers, which is critically important. But what about these first and second graders? I think there are too many children in our country right now, because of what is happening around the country, who are in danger. And I think it is our responsibility to know what is going on. Speeches do not suffice.

When I was in Letcher County, KY, I spent quite a bit of time with Carroll Smith, who is the county executive, Republican—county Judge, which is like the county executive; just a great, great guy. It was interesting, though. He and others were saying to me, did anyone ever mention the word ''rural'' when you all passed that bill? Because in the absence of access to capital and our seeing economic development in our community, we don't know where the jobs are going to be.

The Wall Street Journal had—I haven't even had a chance to read the article from cover to cover—a very long, extensive piece about Delta, MS, where lots of people can't find jobs, or have to drive 60, 70 miles. Again, you have two things going on here. No. 1, there are not the jobs where people live in rural America. No. 2, the jobs that quite often these women are getting maybe pay $6 an hour. They are going to be worse off than they were before, because there will not be health care after a while, and they don't know what to do by way of child care.

It seems to me that one of the things that we need to do is at least call on the States to provide us with an evaluation, maybe every 6 months or every year, on how families are doing toward attaining the goal of economic self-sufficiency. Because if we don't do that, 4 years from now all these families are off all assistance. Don't you think, before we have some tragedy, we ought to at least know what is going on? I am going to have an amendment, a piece of legislation which I will bring to the floor of the Senate and we will have that vote.

Mr. President, I go to the communities. It has been very moving. I hope to get a chance to write a long piece about what I have learned from people. But I don't find that the issues that people in low-income communities are talking about are really different than issues that other working families are talking about. The first question is: Where are the jobs that pay a decent wage? This is still one of the most important challenges for most families in our country. It is an important challenge in poor communities: Where are the jobs? And we are going to have to have an urban jobs program if we are serious about reducing poverty and making sure that families have a chance. Also, we are going to have to do a lot better by way of making sure that, if people work 40 hours a week, 52 weeks a year, they are not poor. If people play by the rules of the game and they work hard, they ought not to be poor. That is where child care fits in. That is where health care fits in. And not just for low-income families, but for the vast majority of families in our country.

I heard my colleague from Illinois speak. I was so pleased to hear what he said. But I would like to challenge both Republicans and Democrats, because I think that what is going on here is we have a debate that, in a way, may take us nowhere, or at least certainly not connect very well with a lot of people in our country.

On the one hand my friend Jeff Faux has written a very interesting piece where he argues this. I will take a piece of what Jeff says. On the one hand, for example, we have the majority party, the Republican Party, which argues—at the risk of getting the Chair angry at me—which argues, when it comes to some of these most pressing issues, for example affordable child care, there is nothing the Government can or should do. My argument is that is a great philosophy if you own your own large corporation and you are wealthy, but it doesn't work for most of the people in the country. On the other hand, you have the Democratic Party that says we are all for the children, we are all for education, we are all for job training. But, do you know what? Politically there is not anything we can do either. We just have to cut taxes because politically that is the only way we can make it. In which case neither party has a whole lot to say to the very families we are talking about, at least if you get beyond speeches and conferences.

We have had enough speeches. We have had enough conferences. The question is whether or not we are going to go beyond the speeches and the conferences and dig into our pockets and make the kind of investment that we need to make as a nation. I think the question for all of us is how can we renew our national vow of equal opportunity for every child in America? That is the goodness of our country. That ought to be the central goal of public policy here in the Congress. I make a commitment, as a Senator from Minnesota, to bring that kind of legislation out on the floor, working with others, with the financing, with the investment, so this isn't empty rhetoric. We ought not to separate the budgets we introduce from the words that we speak.

Finally, let me make one other point. My training is as a political scientist—I was a college teacher before I became a U.S. Senator—not as a political economist, although I am interested in political economy. There is something very interesting and very important going on in our country, which is now we have reports about record low levels of unemployment. The GDP looking great. Productivity is up. But real wages of most families are down. The economy of American families is not measured by GDP, it is not measured by all these official statistics. It is measured by real family income. It is measured by whether or not people can purchase the things that make life richer in possibilities. It is measured by opportunities. It is measured by security or insecurity. And it is measured by our expectations for our children and our grandchildren. And by that criterion, a whole lot of families could be doing better and we could be doing better as a nation.

One of the issues that I think is a living-room issue in America, a kitchen-table issue, that we are going to have to have the courage to take on, is health care. We can have patient protection—I am all for that. We can have provider protection—I am all for that. We can try to control some of these large insurance companies that own and control most of the managed care plans—I am all for that. But the fact of the matter is, we have now moved from 40 to 44 million people or thereabouts without any health insurance since we first started talking about this 3 years ago; more than twice that number of underinsured, and the vast majority of people in the country, not just low-income—either people are not old enough for Medicare, and Medicare doesn't cover prescription drug costs, it doesn't cover catastrophic expenses, or people aren't poor enough for medical assistance and they are not lucky enough to be able to work for an employer who provides them with good health care coverage.

We ought to have humane, dignified, affordable health care for every man, woman, and child in our Nation. For me, next session, that will be my priority—with the financing, clear with people in the country how you pay for it. But I am telling you, large insurance companies don't like it. And there are a whole bunch of other powerful interests that don't like it. But the majority of people in this country know that this system is in big-time crisis. It is time we get back to this issue as a Congress.

I really do think that, as we think about what we have done and what we have not done—I will just talk a little bit about what we haven't done in the

few minutes I have left. I think these standard of living issues are the critical issues. I think, unfortunately, Jeff Faux is right, neither party is telling the story that gives people any confidence that much is going to happen that is good for them. And I think we could do better, all of us.

And in addition, the one other issue that we did not get the job done on, and it is critically important, is campaign finance reform. When I go into cafes in Minnesota, this is one thing I don't gloat about. I am not even pleased to say it, but it is true. Because it is aimed at me. It is aimed at all of us. The vast majority of people I talk to in cafes believe both parties now—they just sort of view the Government as being controlled by wealthy financial interests. They just feel locked out. They feel like it is for big players and heavy hitters. And, you know what, all of us have to raise money. That's what we have to do. That's not the point. I did. We all do. That's the system right now.

We should change this. We didn't, not this time. We come back to it next year. But this is a real important issue and it is not that people don't care about it. They care about it deeply and desperately. And I think they want to believe in the political process. They want to believe in Government. But we are going to continue to see a tremendous amount of cynicism and apathy and disengagement and disillusionment unless we get as much of this money out of politics as possible. We know what the criterion is. We have talked about it enough. It is time to really move forward. It can't just be like a piece of legislation where we maybe do one thing but then all the money shifts somewhere else. Then people will just be even more disillusioned. I think this is a core issue.

There are a lot of good things all of us could do here. A lot of good things get trumped by big money in politics.

Mr. President, I will conclude—how much time do I have left?

The PRESIDING OFFICER. The Senator has 1 minute and 41 seconds.

Mr. WELLSTONE. Let me just conclude by thanking all the conferees on the Labor, Health and Human Services appropriations bill, especially for all the women and men in the Parkinson's community who worked so hard to make sure that we have some clear directive to NIH about making sure that there will now be some real investment of resources in research to find the cure to Parkinson's disease. It has been one of the greatest lobbying efforts I have ever seen here. It was citizen lobbyists, people who struggle with this disease, who once upon a time were kind of embarrassed to be public and be out and about. People have been there.

All of you in the Parkinson's community, you have set a really good model for the Nation. Because if we had more people like you coming to Washington, DC, it would be a better Congress.

We need to get a lot more ordinary citizens coming to Washington or meeting with us back in our States. I just hope more and more people will be like that. It was a really fine victory.

Mr. President, I presume then there will not be an opportunity—my colleagues are on the floor as well—we are not going back to fast track, is that correct?

The PRESIDING OFFICER. Correct.

Mr. WELLSTONE. And there is not an opportunity to offer amendments? I ask the majority party as to when I might have an opportunity to offer an amendment to fast track? I will do it later—I see my colleagues on the floor—but will there be an opportunity?

The PRESIDING OFFICER. As was indicated to the Senator, the Chair does not think that has been arranged, and it will depend upon the instructions from the leader.

Mr. WELLSTONE. I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that morning business be extended until 3:30 p.m.

The PRESIDING OFFICER (Mr. KYL). Is there objection? Without objection, it is so ordered.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

UNANIMOUS-CONSENT REQUEST—H.R. 2676

Mr. KERREY. Mr. President, I ask unanimous consent that the Senate proceed immediately to H.R. 2676, the IRS Restructuring Act of 1997 by discharging this legislation from the Senate Finance Committee to which it was referred on Thursday; that the bill be read a third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Mr. President, I rise to object to the unanimous-consent request made by my distinguished colleague, Senator BOB KERREY. The process of his seeking a UC agreement and my objecting is into its fourth day now. I do want to say publicly that I appreciate the civil and courteous manner in which the process has unfolded.

It is my opinion that what unites Senator KERREY and me is more significant than what divides us. His successful commission has done essential work in uncovering weaknesses and shortcomings within the IRS. The 3 days of hearings we held in the Finance Committee disclosed others. Both of us are well aware of the changes that must be made within the agency.

Senator KERREY is right when he says the vast majority of our colleagues would vote to pass the legislation which passed the House by a vote of 426 to 4. Indeed, when one looks at the abuses and inefficiency of the IRS, it is hard to resist the argument that any reform is better than no reform at all. Senator KERREY is correct in saying that the legislation he proposes would make important reforms to the IRS, but he is also right in saying that the legislation is not complete. It has weaknesses, and I must emphasize very, very serious weaknesses.

Mr. President, the simple truth is that I am not willing to compromise on real reform. I am not willing to rush into legislation that does not go far enough to address the changes that must take place within the agency, especially when rushing in will adversely impact the potential of passing real reform later. The fact is, this reform falls short of what we need to accomplish.

The New York Times reports that ''tax experts across the country say the practical benefits of the [legislation advocated by Senator KERREY] will be minor.'' According to Stuart E. Seigel, a former chief counsel of the IRS, ''Most of the bill's provisions are very limited and will not have a significant impact on most taxpayers.''

Senator KERREY suggests that each day the Senate delays in passing what the New York Times calls minor changes, some 150,000 people will be affected as they continue to receive notices from the IRS. Yet, another report in the Times makes it clear that ''the provisions in [this 'watered down'] bill are [so] narrowly drawn [that it] would affect relatively few people.''

Senator KERREY himself has made it clear that ''this [bill] doesn't go far enough.'' The Wall Street Journal of November 3, 1997. And Newsweek reports that the strong measures aimed at reform have been eviscerated.

The question all of this begs is simple: Why compromise? If Senator KERREY suggests this bill doesn't go far enough, if we have a growing consensus among tax practitioners, taxpayers, and the media that the bill is deficient, and if we have the conviction in Congress and the sentiment at home that something significant must be done, why are we willing to compromise?

The bottom line, Mr. President, is that I am not willing to compromise. Some would suggest that half a loaf is better than none; that we can come back and stiffen up this legislation later.

Well, we know where that will lead. If we pass this reform legislation, then those who are not anxious to pass further reforms will resist a new bill. The truth is that we will get only one real chance to reform the IRS, and we had better do it right.

There are several significant issues we need to address. We should begin by giving the oversight board called for in this legislation, and if we adopt such a board, the authority to look at audit and collection activities. More than 70 percent of Americans think poor treatment in audits occurs fairly regularly, yet this legislation expressly prohibits the oversight board from having jurisdiction over audits and enforcement.

This is just the beginning, Mr. President. Let's include a provision to ensure that all taxpayers have due process and that the IRS does not abusively use its liens-and-seizure authority. Let's give the taxpayer advocate greater independence. Likewise, the IRS should have the benefit of an independent inspector general. Let's strengthen the legislation to require signatures on all IRS-generated correspondence, and let's curb the use of false identifications by agency employees and ban the use of statistics and goals in determining their performance.

These changes are only a beginning of what needs to be done. Yet, the legislation advocated by my distinguished colleague does not address even these most fundamental needs. If we are unprepared at this time to add these things, then let's be patient. Let's not pass a bill that Senator KERREY has already suggested ''doesn't go far enough.''

The PRESIDING OFFICER. Objection is heard.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, first of all, let me return the compliment. I have high praise for the chairman. He has done exceptional work on this issue, especially the 3 days of hearings which penetrated the section 6103 veil and issues that are protected under normal circumstances by privacy laws.

Let me also respectfully disagree with his characterization of this as a watered-down bill, citing the Washington Post, the New York Times, et cetera. They are apt to object to many of the things that the distinguished Senator from Delaware wants to do as well.

This piece of legislation has the full endorsement of America's accountants, America's enrolled agents, the National Federation of Independent Business, the National Treasury Employees Union. It is by no means small reform. I intend this afternoon to go through the bill. It was sitting at the desk a couple of days ago. We could have taken this thing up a couple of weeks ago and had a full debate on it. We would have had plenty of opportunity to amend it, to improve it and to change it, but we didn't. I am going to go through this bill and let my colleagues decide on behalf of their taxpayers whether or not they want to change the law.

It looks like we only have a day or two left, but all we have to do is bring it up here to the floor. All we have to do is have no objection raised, and we can pass this piece of legislation. I am going to show some of the new things this law would provide to the American taxpayers as they consider whether or not this piece of legislation is watered-down.

Mr. REID. Will the Senator yield without losing his right to the floor?

Mr. KERREY. I will be pleased to yield.

Mr. REID. Mr. President, I appreciate my friend yielding. I have another matter to attend to in a short period of time. I wanted to come to the floor and spread on the Record of this Senate that the Senator from Nebraska should be commended and applauded for the work that he has done on this issue. He chaired the Entitlement Commission, of which I had the good fortune to serve as a member. It was a tremendous experience. One of the things I will never forget is the testimony that was taken during those hearings about the Internal Revenue Service.

We have heard figures that it costs at least $200 billion a year just for people to fill out their forms. That is only part of it. We had testimony during those hearings that the cost of the Internal Revenue Code itself is up to $400 billion. It is lots of money, we recognize that.

I worked hard to write the taxpayer bill of rights. It is now the law. It was a help, but it didn't go far enough. We need to do better.

What this legislation will do—which has received the almost unanimous support of the House of Representatives, 426 to 4, and the President of the United States supports this legislation—this legislation would give the Internal Revenue Service some meaning. The employees of the Internal Revenue Service support this legislation, former Commissioners of the Internal Revenue Service support this legislation. The Senator from Nebraska has done the right thing by moving beyond the Entitlement Commission, to the Kerrey–Portman Commission which studied specifically the Internal Revenue Service, and now is responsible for the bill having passed the House and now in the Senate where it should pass.

This is good, elementary legislation. It is legislation that will make the American people feel good about an important institution of Government, the Internal Revenue Service, which is now a hiss and a byword. People should not feel that way about the Internal Revenue Service, even though they do. This legislation, which should be passed by unanimous consent, would allow the American public to feel better about the Internal Revenue Service.

So I say to my friend from Nebraska, you are on the right track again with this legislation. This is something that is necessary, it is important, it is important because it creates this oversight board. It is important because it allows recovery of attorneys fees. It allows recovery of damages. There is a toll free number to register complaints. It improves the operation of the Taxpayer Advocate Office. It is good legislation. I do hope the Senator will go through this legislation and explain to the American public why it is so important we pass it and pass it now.

Mr. KERREY. I thank the Senator from Nevada, especially for his earlier work on the taxpayer bill of rights and taxpayer bill of rights II. Prior to the enactment of those laws, the taxpayer had almost no authority at all coming up against the IRS. With the enactment of those two bills, the taxpayer now has a substantial amount of power which was previously denied, and those who predicted there would be a big decline in collections —which, as you know, was the case—those predictions did not turn out to be true.

This really gets right to the heart of it. This is not just an agency collecting money in order for us to be able to pay the bills, whatever it is we declare in law we are going to use taxpayer money to pay for. This really gets to the heart of Government of the people, by the people, and for the people. If people don't trust that they are getting a fair shake with the tax laws, with those 8 out of 10 who voluntarily comply—actually 83 percent of the American taxpayers comply, down from 93 percent 10 years ago. To those 83 out of 100 who voluntarily comply, they need to know, are they going to get the information they need to pay their taxes; are they going to get a fair shake if there is a dispute; are they going to face an agency that has the capacity to be managed in a way that is comparable to what the private-sector financial institutions demonstrate on their behalf?

The answer right now is no in all three cases. More people pay taxes than vote in this country and their dissatisfaction with this agency is broad, it is deep and it is urgent, not just for the sake of being able to say we have done all we can to get this agency running correctly, but it is essential for the sake of people's confidence in their Government that we enact these changes.

I heard, again, the distinguished chairman of the committee, whose willingness to hold hearings on this subject has been terribly important to examine beyond the privacy veil some of the additional problems that go on with the IRS, say this is a watered-down piece of legislation. That is not true, Mr. President. It may be true in the eyes of people who are opposed to the bill. Indeed, of the four opponents of the legislation in the House—426 voted in favor of it, 4 voted against—the people who voted against it thought it went too far.

He cited yesterday, and again today, editorials that were objecting not to the bill because it didn't do enough, but because it went too far. These are people who don't want change at all. That don't want any change in the way the IRS is run. They think it is run just fine.

So for those of us who have heard our citizens say that they call the IRS up and they can't get an answer to what becomes one of the most important questions they have when they are doing financial planning—which is, how much do I owe the Government? —for those citizens who find themselves in receipt of a notice of collection because they have been told that

they haven't paid enough and find themselves wondering whether or not they are going to be able to withstand the IRS's assault on them, and for those who watch this agency continue to try to come into the electronic world and fail time after time after time, for all those and many more besides, this piece of legislation solves their problems. It solves their problems, Mr. President.

I suspect that it is not likely that my colleagues on the other side of the aisle are going to come down here and say, ''For gosh sakes, let's get this thing passed.'' I mean, on the House side it has the support of the Speaker, of DICK ARMEY, of BILL ARCHER. In fact, the percentage of Republicans supporting it in the House is 100 percent. The only people who opposed it are those who believe this legislation has gone too far, not that I did not go far enough.

There are five titles, Mr. President, in this piece of legislation. It is again worth noting, for those who say, ''Well, can't we just hire a private-sector person, as we just did with Mr. Rossotti to run the IRS? Isn't that enough? Don't we just need to manage it a little better?'' you know, this is a nation of laws. The IRS doesn't exist because somebody decided to put it out there. It was created by the U.S. Congress. It operates as a consequence of what the law says, not just the Tax Code but the other laws that enabled that agency to be created in the first place. So it is a creature of law. It is the law that determines whether or not we are going to be able to get satisfaction for our citizens.

So for those who are wondering why we are talking about the law here, we are talking about the law because the IRS was created by the law, and many things that people have come and asked for, the IRS can't do because the law does not allow it. So we have to change the law in order to be able to do the things that people have been coming to us saying needs to be done.

Mr. President, title I is called the ''Executive Branch Governance And Senior Management of the Internal Revenue Service.'' It sounds innocuous enough. Indeed, most of the debate about this piece of legislation, regrettably, has been focused on the first half of title I, and that is the executive branch governance.

There was resistance early to having a public board governing the IRS and have control and authority over the IRS. We finally persuaded the President that this was a good idea. This public board does have real authority to develop a strategic plan to make budget recommendations and make comment on the acceptability of the IRS Commissioner—tremendous authority under the law.

There are some people who would like to go further. As I said, most of the people that have looked at this, if they have any objection at all, they object to it going too far. They object and say that the President should not have agreed to it, that he should not have said yes to us in this regard.

We felt that having a public board—in this case a 9-person public board—with authority over the developing and strategic plan was crucial in order to be able to develop some consensus between the Congress and the executive branch about what the IRS was going to do.

What is the plan? If you don't have a plan, then it is going to be very, very difficult to have any kind of an implementation strategy.

The distinguished chairman says they want to be able to go and look at audit information. I do not believe this board ought to be looking at returns, nor do I think it ought to be getting into the details of audits. Should it be able to look at the standards of audits? Absolutely.

Indeed, in one of the other titles of this legislation we require the IRS to publish the standards of audits. If people say, ''Gosh, don't they already?'' I say, no. I say to citizens who are concerned about this, we had only one full study on the basis of audits, the way audits are conducted by the IRS, only one study by a woman at the University of Syracuse who got the information through a Freedom of Information Act request.

And every time she publishes her report, which is highly critical of the IRS—saying that the audit is done on one basis in Arizona and a different basis in Nebraska, that their subjective determinations are rampant throughout, that there does not appear to be consistency from one State to another, that it depends on where you live as to whether or not you are going to be audited, all kinds of criticism of this audit— every time she surfaces those criticisms, the IRS attacks her. ''Oh, no. You're wrong. You're just some flake up there at Syracuse. Don't trust the information.'' We have all heard that before.

When you have an agency like the IRS, they are able to say they have the power. Since they have the information, they can just say the citizen is wrong.

This law requires the IRS to publish the standards of their audits. Let us decide. Let the citizens decide. Let the people examine this information to determine whether or not there is an objective basis for the audit and whether or not the public supports it. Don't let the IRS sort of do it on their own because it leaves open the possibility that you get what we have right now, which is a very substantial lack of confidence from one State to the next as to whether or not the citizen, the taxpayer is getting a fair shake. Again, back to what I said before, this is the way the IRS strikes at the heart of citizen confidence in Government of, by, and for the people.

We are not talking about reform in the EPA here or the USDA that touches a much smaller number of people or even the Federal Election Commission that touches only individuals who chose to run for office. This agency touches almost every single household. Every single American has some contact with the IRS on an annual basis.

The second half of this title which is crucial—and this is one that if I ever come down here and offer my unanimous consent request, and the bill gets discharged, and we vote on it, my guess is it is going to go 100 to nothing, or close to it. And one of the reasons I believe that is the section in title I that deals with management of the Internal Revenue Service senior management.

People are surprised when they hear that the Commissioner has no authority to hire, to fire, to bring on their own team. Now, we make certain that veteran preferences are maintained, that the Commissioner has to follow the employment regulations of the Federal Government, especially the civil rights regulations. But significantly, though, this strengthens the Commissioner's ability to be able to manage, to be able not only to use punitive penalties for those who are not doing a good job but put positive incentives in place.

Mr. Rossotti is from the private sector who came and talked to the Senate Finance Committee, when we held his confirmation hearings, and told us all the wonderful things he was going to do to manage the agency. The law does not give him the authority to do it, does not enable him to do the things he wants to do. We said, you can hire 25 more people. We gave him the authority to hire 25 more people, the only thing is they won't have any authority.

Those of us who have had the opportunity to serve our country in the Armed Services understands one of the first things we were taught is the difference between responsibility and authority; that I can delegate authority, but responsibility always stays with me. One of the worst situations you can have in life is to be given a lot of responsibility but no authority.

And that is what he has. He has the responsibility—everybody comes to him and complains when the agency isn't being run right—but he does not have the authority under the law to manage the agency, either with penalties or with affirmative incentives in place to reward people for doing a good job, to reward people for their high-performance in meeting the objectives and performance standards that he has set out in this law to present to the board and to present to the Congress.

Title II deals with electronic filing. I can see why some people who have been commenting on this bill, as if they have read it, ignore this particular section. It is kind of boring—electronic filing. Electronic filing does not sound like it is a very exciting piece of information.

I tell you, for the American people who pay for this agency, $7.3 billion a year to run it, and for those who are filing tax returns out there, who spend $200 billion a year to complete the forms, electronic filing is a big deal.

Why? It is a big deal, Mr. President, because we discovered —our restructuring commission that held 12 public hearings and thousands of meetings with employees and with former employees, as well as with all the people that help private-sector people, citizens to fill out their tax returns—we discovered that the error rate in the paper world is 25 percent and the error rate in electronic filing is less than 1 percent. And we change that in this law.

We still have a provision in there that requires under law that you have to actually put a signature document with your electronic filing, even though when we went down and visited the service centers and we talked to service center employees about this signature document—this piece of paper that has to still be filed, it is a requirement of the Department of Justice. The truth is, if you sign in black, the copiers are not so good anymore and it will not stand up in a court of law as to whether it is the real signature or a copy. So these stacks of papers they have down there are not worth anything. It is still required under law, but it is a nuisance to the taxpayer. Even with that paper having to be filed, the error rate is less than 1 percent.

Mr. President, when it comes to doing any piece of work, whether it is preparing your own or trying to make the tax collection agency run efficiently, an error is money. It costs the taxpayers twice. It costs them first in an agency that is more inefficient than it ought to be, and it costs them a second time because it adds to the $200 billion. Some fraction of that $200 billion is there because it is inefficient, because it is difficult to get the information, because it takes longer than it otherwise would have.

For those who sort of are trying to, in their own minds, scratch their head and figure out what I am talking about—which is not altogether easy sometimes—most of us in our billfolds, our purses will have a thing called an ATM card, a little piece of plastic that the private sector has developed. They developed it to make it easier to make financial transactions, to do business with your bank or financial institution. Lord knows, it is a lot easier. It is lots more convenient. It enables you to do things that otherwise you would have to actually physically go in while the bank was opened to get done.

Well, you ask yourself, ''How come the IRS has not done that?'' The answer, Mr. President, again, is the law. There are insufficient incentives and there is no way to achieve consensus.

We started this thing in 1995, 2 years ago, when Senator SHELBY and I stood on the floor managing the Treasury-Postal bill. And we fought against the IRS because they had just been determined by the General Accounting Office to have wasted $4 billion in purchasing computers.

We discovered in our restructuring commission these computers can't even talk to one another. You have a stove pipe organization, and one stove pipe doesn't talk to the other stove pipe, and it doesn't talk to the other stove pipe, and you can't get the information you need. It can take months and months and months to get information you need.

Mr. President, time for the American taxpayer is money. And they pay for it twice. So this section in here, electronic filing. Again, I understand why it has been ignored by people who write editorial pieces, because it is not very glamorous. It is not, you know, a very hot issue. It is not the sort of thing that sort of gets the blood boiling. But it is the sort of thing that will save taxpayers an awful lot of time and an awful lot of money.

Let me get to the third title. Those who say, ''Well, how about all those concerns we hear in the Finance Committee that taxpayers were raising?'' Title III deals with taxpayer protection and rights. I am willing to go further. Had this bill been brought to the floor a couple weeks ago, we could have, in fact, strengthened the Taxpayer Advocate Office.

I am willing to make it more independent than it currently is even in this law, which gives the Taxpayer Advocate a lot more independence and a lot more power than they currently have. Hardly watered down, hardly insufficient, hardly minor if you are one of the taxpayers who get affected in here. We shift the burden of proof when you go to Tax Court—a big deal.

Today the presumption is that the taxpayer is guilty. If you get a notice, if you are one of the 135,000 people every single day who received, in addition to other sorts of things in the mail, a little thing that says ''Internal Revenue Service,'' there isn't any feeling quite like that to wake you up in the morning. You get that little piece of notice in the mail and your hands shake. And you open it up, and it says, you owe $100, you owe $500, $1,000, whatever the number is.

Under current law, the presumption is you are wrong; they are right. The burden is on you. You have to prove they are wrong, if you want to try to prove it. If you agree with them, fine, you send them a check. But if you say, ''My gosh, I did this myself. I had an accountant help me. I had somebody else help me. I didn't make any mistake. I don't owe any additional money,'' welcome to the club. Now it is for you to prove that you are right, they are wrong.

We did not go as far as some would have liked to say, that you go immediately and shift the burden of proof so that the IRS has to prove you are wrong, because we felt that would punish and penalize the 83 out of 100 people who voluntarily comply who aren't receiving a notice; but we said, if you reach Tax Court, if you are unable to settle this thing and you reach Tax Court, it does shift now to the IRS. They have to prove that you are guilty, as is the case in every other court of law. This is not a minor change. Even though it was only several thousand people a year that end up in Tax Court, Mr. President, I will guarantee you, if you are one of those several thousand people, this is not a small change. This is a big change. And it will likely have a tremendous impact on your capacity to get a fair hearing before a U.S. Tax Court.

In subtitle B of title III there are a number of things dealing with what is called proceedings by taxpayers. It expands the authority to award costs and fees. We earlier had a discussion yesterday of this.

Today, you cannot get your attorney fees if you are found not to owe anything. Under this provision, the answer would be you would get attorney fees. You have the opportunity to be awarded up to $100,000 of civil damages if the IRS can be demonstrated to be negligent. Today, if the IRS is negligent or the IRS makes a mistake or the IRS is at fault, they don't have to worry about it. There is no penalty in place under the law to the IRS if they make a mistake.

Under this law there would be. It changes their attitude. It puts them in the frame of mind of saying, ''My gosh, if I'm going to send a letter out to somebody and say they owe money, I better make sure they owe money, I better be reasonably certain I can make the case in Tax Court and better be reasonably certain, because if I'm demonstrated to be wrong, we could be out of some dough here. And if I'm negligent,'' which is very often the case, ''if I'm negligent, we're going to have to pay a price for it.''

We all understand that there needs to be some sort of negative sanction against behavior that could put people at risk. This law does that in a reasonable, responsible way, but certainly not in an insignificant way for those individuals out there—again, 135,000 every single working day—that are going to receive a notice of collection. This is not a small item for them.

There is a title in here called ''Elimination of Interest Rates Differential on Overlapping Periods of Interest on Income Tax Overpayments and Underpayments.'' I will not go into this at length on the floor here this afternoon. Again this is not a small item. We have taxpayers out there saying, ''My gosh, I don't understand it. You have given me a bill, I am in dispute, and I have to settle early because if I don't there is a possibility I could end up with a huge penalty.'' In no court of law do you have that. In no court of law do you have a situation where a citizen says, ''I better make up my mind in a hurry here, otherwise I could end up with an enormous penalty. I could be penalized as a consequence of trying to make my case.''

Other titles here are ''Protections for Taxpayers Subject to Audit or Collection Activities,'' ''Privilege of confidentiality extended to taxpayer's

dealing with nonattorneys authorized to practice before Internal Revenue Service,'' ''Expansion of authority to issue taxpayer assistance orders,'' ''Limitation on financial status audit techniques,'' ''Limitation authority to require production of computer source code,'' ''Procedures relating to extensions of statutes of limitation by agreement,'' or ''Offers-in-compromise,'' ''Notice of deficiency to specify deadlines for filing Tax Court petition,'' ''Refund or credit of overpayments before final determination,'' ''Threat of audit prohibited to coerce Tip Reporting Alternative Commitment Agreements.''

Mr. President, these are not small items. I would be surprised if there is a single Senate office that has not heard a taxpayer bring one, if not several, of these things to the attention of a Member. These are not small. These are not insignificant. These are changes that could shift and cause taxpayers to say, ''Finally, you are doing something that makes sense.'' The IRS cannot do it today. They are prohibited from doing these things. Again, we are a nation of laws, and once the laws are changed, the IRS will behave in the way the law directs.

There is a subtitle, ''Disclosures to Taxpayers.'' What is the big deal? We had at least one witness before the Senate Finance Committee, a woman, who came and said she was surprised to discover that after her husband had divorced her and hit the road, she ended up being liable for his tax bill. We all heard it and said it was terrible, it shouldn't be the case. She was terrorized by the IRS. They put her and her new husband in jeopardy. She ended up getting divorced, Mr. President, over this because she was better off divorced. It is terrible. Change the law.

Well, bring the bill up and vote on it. You want to wait until next year? You want to put these people at risk? You don't want to solve a problem you know you can solve by changing the law? I don't understand it. I simply don't understand it. I don't understand what benefit is gained by delaying. We have a bill that we can bring up today—today. All it would take is the majority leader persuading the Republicans on that side. Every single Democrat is ready to bring it up. As I say once it is here for a vote, my guess is it is unanimous. Once people start looking at the details of the bill and see what is in this bill itself, I don't think they will object to this. I don't think they will come down here and say, gee, these are small, these are insignificant, these aren't anything that is going to have an impact on people.

Subtitle G is called ''Low Income Taxpayer Clinics.'' I say there are people who are working, people in the work force, people out there trying to figure out how to read the Tax Code. There must be something out there available to them. The answer is there is not. We are not spending a lot of money, but we are saying keep the playing field level, give people the opportunity to get their questions answered in the same way you can get a question answered if your income is high enough that you can hire an accountant to get the job done for you.

Mr. President, these are not small items in this legislation.

The next title in this bill is ''Congressional Accountability for the Internal Revenue Service.'' As I said earlier, as much praise as I got from the chairman after 3 days of hearings, we discovered for the first time in 21 years the subcommittee held a hearing. We had people criticize us. I guess every 21 years is too often. This is a requirement every 6 months for the Joint Tax Committee to meet and hold a hearing with this new public board. Why? Not just for oversight, but so we can get consensus on what the strategic plan is going to be.

Every single private-sector person, every other government agency that talked to us about the technology investments, Mr. President—that is the key question. How do you make an investment in computers, and especially the software and operating system, for this 110,000-person agency that processes over 200 million returns a year? How do you do it when the processing occurs over a 150- or 180-day period? Every person that came to us said, unless you know where you are going, unless you have consensus on a strategic plan and understand the IRS currently has a board of directors that includes every single Member of Congress, 535 people on its board of directors—we heard witness after witness come to us and say the problem very often is not the IRS, but the Congress.

You have to give better oversight, more consistent oversight so they know what they are supposed to do. Congress is giving permission. We are not saying there will be a blank check. Congress still retains the authority to cut, to do whatever it wants, in response to things it sees the IRS doing or not doing. Congress still retains the authority to authorize and appropriate money. We have to have a mechanism to improve the oversight that Congress gives the IRS.

You say it is a small item. It is a big item. Mr. Rossotti will tell you it is a big item. There is one speed bump, and he is heading for Niagara Falls. When he will have 200 million returns filed, he hits one speed bump and he will come before six committees—three in the Senate and three in the House—to answer questions about what he did or didn't do and why he didn't solve the problems that he was supposed to solve.

Mr. President, this piece of legislation has many other things, and I will probably have an opportunity to talk further about this. Members need to understand what is in the bill. You have heard complaints and concerns coming from citizens at home. This piece of legislation will solve an awful lot of those concerns. You will go home and your taxpayers will say to you, ''For gosh sakes, what did you gain by delay?'' I stand here and predict the statements didn't go far enough. We need to do more. My guess is all we are doing by waiting another 150 or whatever the days are, and we will pass a piece of legislation roughly the same. This is a very strong piece of legislation.

I ask unanimous consent to have printed in the RECORD an IRS reform index that shows the cost of delay and shows the kind of support it has on the House side and the kind of support it has in the private sector.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE IRS REFORM INDEX

As of Sunday, November 9, number of consecutive days on which Senate Republican leadership has blocked Senator Bob Kerrey's attempt to bring up his IRS reform bill: 4.

Number of Senate Democrats who have urged Majority Leader Trent Lott to pass Kerrey bill before adjournment: 42.

Number of collection notices the IRS has mailed since Senate Republican leadership first blocked consideration of Kerrey bill: 396,000.

Number of taxpayers who have tried to call the IRS during that time: 825,000.

Number of collection notices that will be mailed before Senate returns January 26, the next date at which IRS reform could be considered if Republican leaders continue to block consideration of Kerrey bill: 9,504,000.

Number of taxpayer calls before Senate reconvenes: 19,800,000.

Number of those callers who, according to national averages, will be unable to get through: 9,702,000.

Number of those who do get through whose questions will be answered incorrectly: 807,840.

Vote by which House version of Kerrey bill passed: 426–4.

Percentage of House Republicans, including Newt Gingrich, Dick Armey and Bill Archer, supporting that bill: 100.

Amount Majority Leader Trent Lott called the ''teeny'' price of a phony ''poll'' Republicans propose to send out with all tax returns to assess taxpayer attitudes toward the same IRS they are objecting to reforming: $30 million.

Number of Nebraskans whose entire annual income tax bills would be required to finance that ''teeny'' sum: 11,033.

Number of members of Congress who ought to know their constituents are fed up with the IRS without spending between $30 and $80 million on an unscientific survey: 535.

Mr. KERREY. I hope in the time remaining, all it will take is my friends on the Republican side simply not objecting to bringing this bill up, for us to act on it and get it to the President with his signature.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that morning business be extended until 4 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. WYDEN. I ask unanimous consent to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Thank you, Mr. President.

FEDERAL MEDDLING IN OREGON

Mr. WYDEN. Mr. President, I rise today to take a few minutes to discuss Federal meddling in the internal affairs of my home State of Oregon.

As many of my colleagues know, the people of my State have been discussing at length the concept of assisted suicide. In fact, the people of Oregon have spoken twice on this issue. It is a very difficult issue, and after months of thoughtful debate and intense media scrutiny, the voters of my State have voted to allow physicians to assist their terminally ill patients in ending their lives.

Mr. President and colleagues, let me say that I have deep personal reservations about the concept of assisted suicide. I have voted twice as a private citizen against assisted suicide, and once on the floor of the U.S. Senate I voted against Federal funding of assisted suicide. But let me also say that the voters of my State in a recent ballot measure have voted no on the question of repealing the matter of assisted suicide they voted for earlier.

My question today is, what part of no does the Federal Government fail to understand? We saw just a few hours after the Oregon vote some of the most powerful Members of the U.S. Congress and the Clinton administration looking to overturn the popular will of the people of Oregon. Within hours of the Oregon vote, a letter emerged from the Drug Enforcement Administration to the Members of Congress who control the budget for the Drug Enforcement Administration. In effect, the Drug Enforcement Administration indicates they want to declare war on physicians in Oregon and those they serve by threatening to revoke the drug dispensing privileges of any physician who abides by the law that Oregon has now passed on two separate occasions. In effect, the Drug Enforcement Administration is interested in thwarting the will of Oregonians.

Now, Mr. President and colleagues, let me repeat again, I have deep personal reservations about assisted suicide. Going back to my days with senior citizens as codirector of the Oregon Gray Panthers, I have been most interested in looking at medical advances in pain management and hospice care, and I don't think there has even been a beginning at those efforts, and certainly those are the first efforts that governmental bodies at every level ought to be trying to support.

But when the people have spoken, and in this case the people of my State have spoken twice, it is time for the Federal Government to back off. It is not as if this town doesn't have enough to do already on this floor. It is obvious that important legislation needs to be passed as it relates to a number of Federal agencies. Certainly, the Drug Enforcement Agency has important work to do. I don't see any evidence that they have stemmed the flow of cocaine and heroin and methamphetamine to our kids. It seems to me the Clinton administration and the Drug Enforcement Administration has plenty to do right now other than to meddle in the internal affairs of the State of Oregon.

Now, I have great respect for the Members of Congress who are interested in this issue. A number of them are personal friends and individuals with whom I have worked on a bipartisan basis on health care legislation such as the Food and Drug Administration and health care legislation to protect our youngsters. I have great respect for the Members of Congress, the leaders of the committees that have jurisdiction over the budget for the Drug Enforcement Agency, and I respect them and have worked with them on many occasions.

However, I say to those Members of Congress and to the Clinton administration that it is an inappropriate exercise of our responsibilities to impose personal or religious views on the voters of Oregon. Those voters have spoken. My personal views notwithstanding, I want the Federal Government to get that fairly simple concept known as ''No.'' The people of Oregon have spoken on this issue, and it seems to me if there were a constitutional question involved, perhaps you could understand why the Congress and the Clinton administration would be interested in this Oregon ballot initiative. But in fact, a Federal court has recently ruled against a constitutional challenge to Oregon's law, and the Supreme Court of the United States upheld that ruling.

Mr. President, the citizens of my home State have now made law with respect to what they consider to be compassionate care on the part of Oregon physicians. It was not a rush to judgment. There were two very extensive debates in my State, and I have already indicated that my view with respect to assisted suicide is that I still have deep reservations about the concept.

But the voters of my State have spoken. It would be wrong for those at the Federal level to meddle with that decision. It would be wrong to override the judgment of Oregon voters. And it is my view, Mr. President, that neither this Congress, nor the Clinton administration, nor the DEA, should trample on the judgment of Oregon voters on an issue that the courts have already decided is a matter that should be decided in my home State of Oregon.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCING THE RISK OF UNAUTHORIZED OR ACCIDENTAL LAUNCH OF BALLISTIC MISSILES

Mr. DASCHLE. Mr. President, as hard as it is for me to believe, it was 8 years ago this month that the Berlin Wall came tumbling down. Who among us can forget the stirring pictures of that moment? The entire world watched as jubilant Germans, separated for 38 years by a man-made scar running the length of their country, breached this once impregnable barrier. In so doing, they not only united Germany, they brought together a continent.

The dismantlement of the wall dramatically symbolized to all that democracy had at last triumphed over totalitarianism. The fall of the wall set in motion a series of incredible events. In June 1991, Boris Yeltsin became the first democratically elected Russian President. Two months later Yeltsin disbanded the Communist Party. By the end of 1991, the Soviet Union itself ceased to exist. And the Warsaw Pact, the once fearsome military alliance established to counter and defeat NATO, was officially dissolved.

After five decades of tension, the loss of thousands of lives, and the expenditure of several trillion dollars, the cold war was over. However, as the euphoria of this historic occasion began to melt away, leaders in the United States, Europe, and Russia began to realize that the national security paradigms they had used for nearly half a century no longer applied. They would be required to think anew—a task that presented both challenges and opportunities.

President George Bush took the first steps toward aligning our national security posture with the emerging post-cold war realities in September 1991.

Acting on the advice of Gen. George Butler, the commander in chief of the U.S. Strategic Command, President Bush ordered the U.S. Air Force to stand-down the portion of our strategic bomber force it had kept ready to fly at a moment's notice for most of the cold war. Shortly thereafter, the nuclear weapons on-board these planes were removed and placed in storage. President Bush would also take off alert status those strategic missiles earmarked for elimination under the START I Treaty.

President Clinton has also contributed to solving our post-cold war security concerns. Under his leadership, the Senate ratified the START II Treaty, which limits the United States and Russia to no more than 3,500 strategic weapons. President Clinton completed negotiations on the Chemical Weapons Convention and secured the Senate's approval this past April. The CWC treaty would eliminate the scourge of chemical weapons from the face of the Earth. And finally, just 1 month ago, President Clinton submitted to the

Senate the Comprehensive Test Ban Treaty. If enacted, this treaty would be a useful tool in our efforts to stem proliferation. I hope the Senate will be allowed to act on this treaty when we return.

While we have made some progress in realigning our national security policies to more fully reflect the realities of the post-cold war world, we still have much more to accomplish. Perhaps the most startling and dramatic indicator of how far we have to go is the fact that, as I stand here today—8 years after the fall of the Berlin Wall—the United States and Russia still possess roughly 14,000 strategic nuclear weapons and tens of thousands more tactical nuclear weapons. And even more alarming, both sides keep the vast majority of their strategic weapons on a high level of alert.

In a recent editorial, former Senator Sam Nunn and Dr. Bruce Blair assert that each nuclear superpower maintains roughly 3,000 strategic nuclear warheads ready to launch at a moment's notice. According to Nunn and Blair, while this practice may have been necessary during the cold war, ''today [it] constitutes a dangerous anachronism.''

Mr. President, I believe we can and must do much more to address the threat posed by nuclear weapons. On September 17, I sent a letter to the Congressional Budget Office asking them to assess the budgetary and security consequences of a series of measures designed to reduce the spread of nuclear weapons and the likelihood they would ever be used.

I expect to receive preliminary results from this inquiry by early next year. In addition, I conducted a meeting earlier this week to explore one particular means of reducing the risk of unauthorized or accidental use of nuclear weapons—removing from alert status some fraction of the strategic ballistic missile force.

As a result of this meeting and a series of discussions with Senator Nunn, Dr. Blair, and General Butler, I am convinced that it is time to seriously consider de-alerting at least a portion of our strategic ballistic missile. I say this for several reasons. First, the likelihood of a surprise, bolt-out-of-the-blue attack of our strategic nuclear forces is unimaginable if not impossible in today's world.

Keeping large numbers of weapons on high alert status fails to recognize this reality.

Second, concerns are growing about the reliability and condition of the Russian early warning and command and control systems. United States security depends on the Russians' ability to accurately assess the status of United States forces and to control their own forces. Public reports indicate their early warning sensors are aging and incomplete, their command and control system is deteriorating, and the morale of the personnel operating these systems is suffering as a result of the lack of pay and difficult working conditions.

It is in our interest to have Russian missiles taken off alert and Russian leaders given more time to interpret and respond to events.

Third, de-alerting a portion of our strategic missile force now could strengthen the hand of those in the Russian Duma who support START II and other United States-Russian security measures. De-alerting some United States strategic missiles could send an important signal at a crucial stage in Russia's consideration of the START II Treaty. In addition, when President Bush took unilateral action to de-alert a portion of our strategic forces, President Gorbachev reciprocated by removing from alert a number of Russian land- and sea-based missiles.

Finally, de-alerting a portion of our strategic missile force would not sacrifice U.S. security. The United States has already indicated a willingness to reduce its total strategic force to as few as 2,000 weapons. Even if we were to de-alert the entire MX force, the United States would retain roughly 2,500 weapons on alert status, and several thousand more could be made ready to launch. Moreover, should circumstances warrant, the United States could reverse any de-alerting measures it may take.

Mr. President, despite the fact that the Soviet Union dissolved and the cold war ended, the risks posed by nuclear weapons persist and evolve.

I plan to do what I can to explore options for reducing these risks. I believe de-alerting a portion of our missile force merits further study in this regard. I look forward to working with my colleagues and the administration in the next session of Congress to fully explore this measure as well as any other that could lessen the dangers of nuclear weapons.

Mr. President, I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF PROCEDURE

Mr. ROCKEFELLER. Mr. President, I thank the minority leader, and I thank the Presiding Officer.

Mr. President, I ask unanimous consent that I might be able to speak as if in morning business for up to 20 minutes, and I further ask unanimous consent that at the completion of my remarks Senator BOXER be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROCKEFELLER. I thank the Presiding Officer.

FAST-TRACK LEGISLATION

Mr. ROCKEFELLER. Mr. President, there has been a lot of debate on the floor over the last several days about fast-track authority, and a lot of it has run against my grain. I don't think it has been at a very high level. What I would like to do is respond to a few of the main arguments that have been used against it that I have heard from some of my colleagues about both the nature of fast-track authority and the need for fast-track authority.

Before I begin I would like to say that West Virginia's economy depends and will continue to depend enormously on strong growth in its exports. So any vote which is taken which does not support the proposition of promoting exports from West Virginia is one that I would question. Indeed, the U.S. economy is moving very strongly forward. I don't believe myself that the growth will continue in West Virginia as strongly as it might have if fast track does not pass this Congress, if we do not give that authority to the President. West Virginia had $1.3 billion in exports in 1996. That's about a 35-percent increase in exports since 1992. That is quite remarkable. West Virginia's specific exports to Japan, which is our second-largest export market, went up 128 percent in 3 years. Just think about that, Mr. President—a 128 percent in 3 years; increasing exports increases West Virginia—and that dramatic increase has been with just one country—Japan. And, in fact, that means West Virginia exports to Japan totaled about $116 million in 1996, which is not a lot in some States, but it is a lot in West Virginia. U.S. exports increased by $125 billion last year alone—a lot of this because of trade arrangements.

One thing is undeniably true—denying the President fast-track authority will not create a single new job in West Virginia. Nobody can make that argument with a straight face. It won't save a single job either to deny the President fast-track authority. It will only hamper our ability to sell goods to new markets, which is what this is about, and hurt the growth of a critical sector of our economy, and one that I have personally been working on very hard over the last 10 to 15 years.

I think most of the arguments about the revolutionary provisions of fast track are highly overstated, and highly dramatized. Fast-track authority isn't anything new. And, because it is a procedural mechanism, I don't think there is anything to be feared about it. I recognize that others don't think so. Some have good arguments. Most have rather poor arguments, I think. Fast track is a mechanism simply that helps the United States keep up with the changing world economy and deal with our trading partners in 21st century management.

So, let me take a moment to respond to a few of the persistent arguments which are used against fast track. These are just a few of them.

Is there sufficient congressional consultation accompanying fast-track authority: Very big contentious deal. Right? We are ceding all of our authority to the President of the United

States. We will no longer be a Senate. We will just be a tool of the Presidency.

That is ridiculous. Congressional consultation is required in order for the administration to have and to retain fast-track authority and it has been significantly strengthened, I would say powerfully strengthened, from what was required under the legislation granting the last fast-track authority in 1988. New requirements for the administration are imposed under this bill which the House, and some Democrats in particular, don't seem to have the guts to be able to vote for it. It has all been passed through the Senate Finance Committee in order to ensure the administration carefully coordinates and consults with Congress at every stage of the process. Listen to me on this.

The 1988 act required that the President provide written notice to the Finance Committee and the House Ways and Means Committee of bilateral trade agreements at least 60 days before providing notice to the Senate and the House of his intention to enter into an agreement—and, remember, this is the last fast-track authority—and to consult the Senate Finance Committee and the House Ways and Means Committee regarding the negotiations.

The bill that we passed out of the Senate Finance Committee and which the Senate has voted by a vote of 69 to 31 to take up, the President to provide written notice to the Congress as a whole of his intention to begin multilateral and bilateral negotiations at least 90 days in advance.

That notice, Mr. President, must specify the date the President intends to begin such negotiations, the specific objectives of the negotiations, and whether the President intends to negotiate a new agreement, or, on the other hand, to modify an old or existing agreement. Any failure of the President to provide notice can result in the introduction and consideration of a ''procedural disapproval resolution'' which would deny fast track for the trade agreement, if the resolution were approved.

This bill also requires the President to consult with the Finance Committee and the House Ways and Means Committee, and with other committees, before and after providing the notice of his intention to begin negotiations.

Already we are in advance of where we were in 1988.

The President must consult with all other committees that have any jurisdiction or participation in this matter that request consultations if a committee wants to be consulted. If it wants to be consulted, it can request consultation, and the President must consult with them in writing.

In addition, the Senate Finance Committee's fast-track bill requires the President to consult with the private sector advisory committees established under the 1974 Trade Act, as the President deems it appropriate, before beginning negotiations. This consultation takes place before the trade negotiations have even begun.

Before the President is permitted to enter into a trade agreement, the President must consult with the Senate Finance Committee, the House Ways and Means Committee, as well as other committees of jurisdiction over legislation involving subjects that would be affected by the trade agreement, in addition to the consultation requirements of the 1988 act, which includes discussions about the nature of the agreement and a detailed assessment of how the agreement meets the objectives and purposes of the act.

Now the Senate Finance Committee bill requires the President to consult the Congress on all matters related to the implementation of the agreement.

Free trade agreement negotiations must include an overview of the macroeconomic environment of the countries with which the President intends to negotiate and a discussion of effects on exchange rates—on exchange rates. It is a good idea included in response to concerns raised by certain Members—and it is in the fast-track authority.

These consultations must be continuous as negotiations of the trade bill are continuous. What additional requirements for consultation do the opponents of this want? Another new consultation requirement was added in response to Senate Members' concerns about side agreements that were entered into during previous free trade agreements, like NAFTA and the United States-Canada Free Trade Agreement. The new requirement mandates the President consult with respect to any other agreement he has entered into, or intends to enter into with the countries party to the agreement.

This would include all kinds of agreements: Formal side agreements, exchange of letters, and any preagreed interpretations of the provisions of a trade agreement entered into in conjunction with a trade agreement.

Advisory committee reports are required.

What provision of the extensive consultation requirements am I on? No. 7, No. 8? I have no idea what number I am on of all these new provisions which give strength to the congressional role in forging trade agreements.

Advisory committee reports are required to be submitted not more than 30 days after the President notifies Congress of his intention to enter into a trade agreement.

I know going through this amount of detail sounds arcane. But I just want to in a sense ridicule the arguments that are being used that somehow we are ceding all power to the President. Is it the U.S. Senate which is important in this, or is it jobs for workers in West Virginia and across the country which are important in this? What comes first here?

Further, the Senate Finance Committee fast-track bill requires the USTR to consult regularly, promptly, and closely with congressional advisors for trade policies and negotiations, and with the Senate Finance and House Ways and Means Committee whole membership, and to keep both the advisors and the committees fully informed every step of the way through the negotiations process.

Ambassador Barshefsky is over there doing negotiating, which is really done in secrecy—most of it.

No. 9. We have to be consulted on the progress of the negotiations of any trade agreement eligible for fast track so the Congress can evaluate the negotiations at each stage virtually at each hour.

I do not know what more Members might require in the form of consultation.

Because negotiations traditionally become most intense at the conclusion of the negotiation process, the Senate Finance Committee further expects that the USTR will enter into a formal agreement in the form of procedures similar to those agreed by the executive branch in 1975 that will ensure that congressional advice and committee advice will be able to be fully taken into account as in the past.

Again, this next provision must be the tenth or eleventh requirement for consultation——

As a condition of fast track authority, the U.S. Trade Representative will commit to a set of procedures that afford Members and cleared staff—not just Members but cleared staff—with necessary documents, classified, or unclassified. They will have access to things such as cables, statements of executive branch position, and formal submission from other countries. The USTR staff will work with the Senate Finance Committee to set up a system of briefings for Members during these negotiations, and appropriate staff to be included in the final rounds of the trade negotiation agreement.

And the President is required to notify Congress before initialing a trade agreement which might even be eligible for fast-track authority. He can't even put his initials on it before he consults with Congress. Once the agreement is initialed by the President, the President then has 60 days to provide the Congress with any and all changes required to U.S. law to implement the agreement.

Well, I have another two pages on that, all of them, Mr. President, simply showing that the Senate has adequate consultation—the question is how much negotiating room the President has with all these consultation requirements. No problem with the Senate.

Now, some people make this argument. Some argue fast-track authority is not needed to move trade agreements. It is absolutely true that there have been hundreds of trade-related agreements and declarations which the U.S. Trade Office has concluded during this administration. From January 1993 to just last month that has been the case.

But, let me give my colleagues some examples of these many trade deals that the opponents of this bill point to to suggest that trade agreements continue to be made and that fast-track authority is not really necessary; in other words, you don't have fast track authority to have trade agreements. Well, a lot of these agreements which have been agreed to and negotiated are very peripheral in nature. One, a bilateral investment treaty with Albania. Great. And then an agreement regarding processed chicken quotas with Canada. A memorandum of understanding on trade in bananas with Costa Rica. Wonderful. A trade and intellectual property rights agreement with Estonia. Historic. An agreement on a temporary waiver of Hungary's WTO export subsidy schedule. Wow. Harmonized chemical tariffs with Japan. All right, that's good. An agreement on trade in textiles and textile products with Lesotho. Wonderful. And it goes on and on and on.

I hope that my colleagues will agree that as important as having bilateral agreements with any given country may be—and some of the examples I listed have, in fact, real economic impact; they have real impact on important industries in my State and other States—not many of these agreements are major trade deals. That is my point. In fact, very few are major trade agreements in the sense they are not opening up new markets.

Here rests my argument. What we are talking about is opening up new markets. What the opponents are talking about is totally removed and off base.

I do not mean to say that negotiating with individual countries and establishing bilateral agreements isn't a very important part of improving the trade environment. These individual product or industry-specific agreements with different countries do help improve U.S. trade. I have no doubt about that at all. But they do not make significant expansions in our export markets that America and West Virginia need desperately in order to improve.

Ensuring that U.S. goods and services can be available on a level playing field to the 96 percent of consumers in this world who are not Americans happens to be very important. Trade agreements make sure that we have access to new markets under reasonable conditions. In our increasingly global world, that means we have to have multilateral agreements like GATT and the Uruguay round, and free trade agreements with areas like Latin America and Asia are needed. Why? Because they are growing enormously, and their middle class is growing and their ability to purchase goods is growing.

An up-or-down vote on a multilateral trade agreement makes sense to me because it how we expand our markets. As the U.S. Trade Representative, Charlene Barshefsky, told the Finance Committee, in the two fastest growing regions of the world, Latin America and Asia, governments are seeking preferential trade agreements. ''They are forming relationships around us, rather than with us, and they are creating new exclusive trade alliances to the detriment of U.S. interests.''

Then Ambassador Barshefsky goes on to say, ''In Latin America and Asia alone over 20 such agreements have been negotiated since 1992, all of them without us.''

Well, I can't imagine that doesn't bother the opponents of fast track. I care about the effect of trade on jobs in my State. And there is plenty of protection for the Senate and the Congress in this fast-track authority. You cannot negotiate a trade deal with 100 Members of the Senate and a foreign country or set of countries. It cannot be done. Fast track makes sense.

Can you imagine people coming in and saying, well, we have to.

What are other countries doing on trade agreements while the U.S. debates fast track? Where is the United States at a disadvantage if we don't pass fast track, as they may not in the House? Again, primarily due mostly to my own party.

I have talked about the fact that major markets are negotiating trade agreements and the United States is not in the picture. Let's just look at the major world markets:

No. 1, Uruguay, Brazil, Argentina, and Paraguay have formed a common market called MERCOSUR. MERCOSUR has a GDP of about a $1 trillion and includes a population of 200 million people. It wants to expand its market to the rest of South America. The sheer numbers of people and dollars in this market makes it the largest economy in Latin America. MERCOSUR has agreements with Chile and Bolivia, and is talking with Colombia and Venezuela, in addition to Caribbean nations. The EU and MERCOSUR plan to complete a reciprocal agreement by 1999. We are on the outside of all that.

No. 2, Latin American nations are meeting with members of the Central American Common Market [CARICOM] to discuss free trade negotiations.

No. 3, Chile, with one of South America's leading economies has already signed agreements with Bolivia, Colombia, Ecuador, Mexico, Granada, Venezuela, and MERCOSUR countries. That means Chile has a preferential trading relationship with every major trading country in our hemisphere except the United States. How do the opponents of fast track feel about that?

There are seven members of the South Asian Association for Regional Cooperation [SARC]—Bangladesh, Nepal, Sri Lanka, India, Pakistan, and Maldives—they have set 2001 as the date they would like to create a free-trade area. Right now, SARC is only 1 percent of world trade, but it has 20 percent of the world's population which means this is another important market to the United States in the future.

I talked about Latin America earlier and want to underscore why that market is so important to our trading future. Projections are that Latin America will exceed Western Europe and Japan combined as an export market for the United States in the next decade—and that's under current conditions where tariff barriers average three to four times the average United States tariff. Put simply, Latin America is one of the largest emerging markets, of the 30 million people who join the middle class annually, three-fourths of those 309 million people are currently in emerging markets and low- and middle-income markets.

I am almost at an end. The Asian Pacific Rim is our second fastest growing export market. Meanwhile, our industrial competitors continue to make agreements that put U.S. goods at a disadvantage. Canada has a new trade agreement with Chile. The EU is in a position to take better advantage of the transition economies of Central and Eastern Europe. The EU is also working on getting a free-trade agreement with MERCOSUR.

China is zeroing in on Latin America and Japan is working on its ties to Asia and Latin America through closer commercial ties and a greater commercial presence.

Mr. President, I simply make these remarks because I think it will be such high and deep folly if the House declines to vote on—or if voting, votes down—fast-track authority. I think some of the arguments made in this body have made it easier for Members of the House to say, ''Look what so-and-so said in the U.S. Senate.''

It is a question: Do we want to expand trade? Or do we want to just keep all inside of ourselves? This has been an age-old problem with the United States. We cycle back and forth from one view to another. This is the time to cycle for an expansionist trade point of view.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mrs. BOXER. Mr. President, I had the floor, as I understand it, following the conclusion of Senator ROCKEFELLER's remarks?

The PRESIDING OFFICER. The Senator from California is correct. Under the previous order, the Senator from California is to be recognized.

The Senator from California.

Mr. SPECTER. Mr. President, might I ask unanimous consent—I have been waiting here for some time to speak for up to 5 minutes.

Mrs. BOXER. Following my remarks?

Mr. SPECTER. No, at the present time. I have been here on the floor.

Mrs. BOXER. I have been waiting for at least 2 hours, on and off.

The PRESIDING OFFICER. Objection is heard. The Senator from California.

Mr. SPECTER. May I inquire of the Senator from California how long she will be speaking?

Mrs. BOXER. I would say about 15 minutes, I say to my friend.

Mr. SPECTER. Then I ask unanimous consent that I might be recognized to speak up to 5 minutes at the conclusion of her remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. BOXER. I say to my friend from Pennsylvania, I may finish sooner than that, and I will endeavor to do so.

LOOKING AHEAD

Mrs. BOXER. Mr. President, I think the Senator from West Virginia, Senator ROCKEFELLER, made a very strong plea for giving the President fast track. I find it interesting that those who support fast track say those who do not, in this case, oppose trade. I think the truth is there are those who support fast track on any given occasion, and there are some who oppose it on every given occasion. I find myself in the middle of the road here, where I have given fast-track authority to Presidents when I felt it was in the best interests of our country, of our working people, and of our environment. That is usually when trade is being is being negotiated with countries that have decent labor standards, decent prevailing wages, and decent environmental standards.

So on that topic, I think it is simplistic to say that either you are for trade or against it. I think we are all for trade. I think the question is, is it fair to America? Will it result in good-paying jobs or will it put the squeeze on jobs? And should we give up our authority here in the Senate and the House, should we give that up regardless of whether it is a President of my own party or another party? Or should we hold on to that authority so we can, in fact, stand up for American values and American workers and American interests?

As we reach the end of this session of Congress, I would like to comment on a couple of the issues that we have taken up in the Senate and look ahead for some issues I hope we will take up when we return. As one of the two Senators from the largest State in the Union, every single thing that we do here and every single thing we fail to do here has a major impact on my State. It has 33 million people, more seniors than any other State, more young people than any other State, more workers than any other State, more women than any other State, more infants than any other State. So whatever issue we turn to here impacts my people enormously.

I share pride in knowing that I was able to work with a majority of my colleagues to bring a balanced budget, but one with a heart, to the U.S. Senate and to the President's desk for signature. The march toward fiscal responsibility in this country was actually started when President Clinton took the oath of office. I remember that day because we were filled with promise and hope that we could finally tackle some of our problems. And we did.

I might say it was a tough year for Democrats, because we didn't get any bipartisan help in that budget. But that budget in 1993 was the budget that led us to fiscal responsibility. It took us down that fiscally responsible track. I remember, because I am on the Budget Committee, hearing the comments of my Republican friends at that time that this budget was a disaster, that President Clinton's policy would lead to unemployment, recession, depression—everything bad that you could think of. We persevered and we believed in what we were doing, and I am happy to say that this year we finished the job with our Republican friends. Gone are the days of Government shutdowns, because the American people spoke out in that last shutdown and said: You were sent here to do your job. We want fiscal responsibility but we are not going to have our budget balance on the backs of our grandmothers and grandfathers, our children, the most vulnerable people. We are not going to balance the budget while hurting education and the environment. So the budget agreement took all that into consideration. I think we all have a lot to be proud of.

As we moved forward on the fiscal responsibility front, unfortunately I saw us move backward in a number of areas. I want to touch on those.

In 1973, Roe versus Wade was decided. It is the law of the land. Yet this Congress is constantly trying to roll the clock back to the days when women were in deep trouble in this country because abortion was illegal. We know that there is not the will to have a vote to outlaw abortion because the votes are not there, and the American people would be stunned if a woman's right to choose was completely denied. So what the opponents of a woman's right to choose have done is to chip away at that right. And there are many women in this Nation who have their choice imperiled. Who are these women? Women in the military, women in the Federal work force, poor women in America—all women in America, because fewer and fewer hospitals are teaching doctors how to perform safe, legal abortion.

I don't know why we have to keep turning back the clock to the days when women were in trouble in this country. Why don't we move on? I have a bill that would codify Roe versus Wade. I am looking forward to talking more about that next year. It seems like there is a group that wants to reopen that battle all the time. They want to reopen the battle over Medicare. They want to fight us on issues that already were fought in the 1950's. That's when Dwight David Eisenhower said the National Government ought to have a role in education. In the 1960's, that's when President Johnson said Medicare is important. In the 1970's, that's when President Nixon said we need an Environmental Protection Agency.

I think America does better when we move forward. So I am hoping when we get back here we will complete some unfinished business. First of all, we should fill up all the judgeships that are languishing. Justice delayed is justice denied. We have very fine people waiting to be confirmed by this U.S. Senate. I am very pleased that we did pass a number through, but there are a number left to go. I am very pleased Senator LOTT has worked with Senator DASCHLE and we will have a vote on Margaret Morrow. But we need to do it. We must also confirm the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights. We cannot allow this important position to remain unfilled while such a superb nominee is ready, willing, and able to assume to the job.

We also need the IRS reform that Senator BOB KERREY spoke about so eloquently. And we need passage of campaign finance reform, the McCain-Feingold bill.

Let's place some national standards on our HMO's and ensure that all Americans enrolled in managed care plans receive quality treatment and are always treated fairly by insurance companies.

We need to pass the transportation bill, not just for 6 months, but for 6 years. Our people need highways built. They need transportation systems that work. We owe it to them.

We must make stopping gun violence a national priority. Junk guns have no place on our streets. And we must ensure that all handguns in America are sold with a safety lock. Taking this step would save hundreds of lives every year.

Let's make a national priority of health research. That is what the people want. They want a cure for Alzheimer's, AIDS, breast cancer, prostate cancer, scleroderma, ovarian cancer—these are the things they so worry about with their families today. Let's make a priority of health research.

He is our leader on doubling the National Institutes of Health. He has teamed up with Senator CONNIE MACK on this. It is time that we do this. The American people need it.

We need some minimum standards for day care. Senator DURBIN was on the floor today eloquently speaking about the needs of those infants and those toddlers and how the brain develops. By age 3, 90 percent of the brain is developed. Yet, we have no national standards for child care in this Nation.

So I think it is time that we looked at certain issues. We say children are our priority. Let's pass the Children's Environmental Protection Act and protect them from pollution. We have seen a 30-percent increase in brain tumors among our young children in the last 10 years.

We need national standards for education. We had a good compromise in the U.S. Senate, and the House would not accept it. What are we afraid of? Why wouldn't we want our parents to have a chance to see whether their children are reading at the proper

level, doing math at the proper level? If we really care about our children, let's put some responsibility on the teachers, and this is one way I think we ought to do it.

Superfund reform. We have toxic waste dumps all over this country. We need to clean them up. The law needs to be refined. Too much money goes to attorneys and not enough to clean up the mess. The polluter has to pay. We can't allow the taxpayers to pick up the tab. We need to move forward.

In closing, I want to say this. We are going to be celebrating Veterans Day on November 11. It is a special, special day. It also happens to be my birthday, and I am very proud to share it with the veterans.

Year in and year out, we hear about how many of the homeless in our streets are veterans. Mr. President, how can we, as the United States of America, celebrate Veterans Day knowing that so many of our vets have been turned aside?

I hope we will move on that and on the gulf war syndrome. We cannot turn our back on veterans who served our Nation in wartime and came back sick.

We did it in Vietnam when our veterans were exposed to agent orange. We did it again with gulf war syndrome. We ought to hold our heads up as a nation this Veterans Day.

I really look forward to coming back here and righting some of these wrongs. Senator ROCKEFELLER has a great bill. It says if you are a gulf war veteran and suffer from a disease, you don't have to prove anything except you were in that war theater and you are now disabled in order to qualify for disability benefits. It seems to me if we stand for anything around here, it ought to be standing by our veterans when they are sick and when they are homeless.

So I leave here with a good feeling about a lot of what we did and a little bit of regret about some other things I didn't agree with. But I am excited as I think about coming back here, because I think you heard me describe that there are a number of issues we ought to address that will make life better for all of our people in the context of a balanced budget that has a heart.

Thank you very much, Mr. President. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair. I have sought recognition to discuss briefly two matters: First, the pending fast-track issue and, second, the pendency of our judicial confirmations.

FAST TRACK

Mr. SPECTER. Mr. President, I will begin on the question of fast track with a statement made by the distinguished Senator from West Virginia saying that it would be disingenuous to believe that trade agreements would not be rewritten in the U.S. Senate. I say to my colleagues that I consider it unlikely that trade agreements would be rewritten in this body, considering how hard it is to get 51 votes against a committee report or against an administration position or that we might have the structure on amendments made so that it would require passage of a bill then subject to veto by the President and then subject to a two-thirds override. But if, in fact, trade agreements would be rewritten on the floor of the U.S. Senate or on the floor of the House of Representatives, then it might be something which is desirable.

I oppose fast track, although I am not opposed to free-trade agreements, because I do favor such agreements and supported NAFTA, the North American Free-Trade Agreement, and GATT, notwithstanding very considerable constituent opposition in my own State. Being elected in Pennsylvania, with 12 million constituents, it is my view that I ought to have standing as a Senator to offer amendments, and because we have had a certain amount of wisdom coming from Members of Congress on issues of trade, which are matters of very, very considerable importance.

I will analogize the activity of the Senate regarding trade agreements to what we do on treaties in general, where a two-thirds vote is required. If amendments could be offered to trade agreements, it could be of some substantial value to the President, and the executive branch in negotiating agreements with foreign powers saying, ''Well, we understand your position, but you have to understand ours, and there are certain political realities in the U.S. Congress.''

We have a variety of protocols where you have executive agreements which look very much like treaties which are not subject to ratification by the Senate. A very complicated agreement was entered into with North Korea which involved very substantial issues on nuclear power. That was the subject of a letter from the chairman of the Foreign Relations Committee, the chairman of the Interior Committee and myself, in my capacity last year as chairman of the Intelligence Committee, asking for Senate action. So there are precedents for having the Senate exercise its judgment and I think we have some substantial judgment in the field.

I recall very well in 1984, when the International Trade Commission came down with a decision which was in favor of the American steel industry. At that time the issue arose as to whether President Reagan would overrule the decision of the International Trade Commission. Senator Heinz, my late departed colleague, a great Senator, and I went to talk to then Secretary of Commerce Mack Baldrige who thought that we were right, the American steel industry ought to have that favorable decision from the International Trade Commission. Bill Brock, the trade representative, agreed. We then talked to Secretary of State George Shultz and Secretary of Defense Caspar Weinberger who disagreed.

The President overruled the International Trade Commission and made the decision which was based really on foreign policy and defense policy. The American steel industry paid a very high price which should have been paid out of the general revenues. Western Pennsylvania especially, but eastern Pennsylvania, too, with Bethlehem Steel, suffered very substantially.

Right now, my distinguished colleague, Senator SANTORUM, and I are working very hard on trying to get Cigna fair access to the Japanese markets. Notwithstanding certain commitments by the executive branch and the trade representatives, we have not been able to accomplish that.

So it seems to me that there is a very good reason on principle why matters which come to the Congress on trade issues ought to be subject to amendment. We have some understanding of the trade issues, and we have some understanding of our States' stakes. I think it would be entirely appropriate for us to be able to offer those amendments and not to have to simply vote yes or no, take it all or leave it.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. SPECTER. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MY GRANDDAUGHTER SILVI

Mr. SPECTER. Before commenting briefly on judges, I have a very brief personal note. Yesterday, I spoke about the appropriations bill on Labor, Health and Human Services. My 3-year-old granddaughter, Silvi, was watching the screen on C–SPAN 2, perhaps one of the few watching. She said to her father, my son, Shanin, ''Why doesn't he say hi?''

I told her I might speak this afternoon and alerted her, although the time is somewhat delayed. I do not think it is somewhat inappropriate to say hi to my granddaughter, Silvi. I know in the old days, they said you couldn't do that. But without objection, I say hi to her.

JUDGES

Mr. SPECTER. Mr. President, I want to say a word or two about judges.

It is a very difficult matter getting judges confirmed in the Senate. I congratulate my distinguished colleague, Bruce Kauffman, a former Supreme Court Justice in Pennsylvania, for his confirmation yesterday.

I understand the distinguished Pennsylvanian from Wilkes-Barre, A. Richard Caputo, Esquire, is subject to confirmation with no objection.

I urge my colleagues to support the confirmation of Judge Frederica

Massiah-Jackson, for the eastern district of Pennsylvania, Federal court. Judge Massiah-Jackson has a very distinguished record on the State Court of Common Pleas in Philadelphia County. Although some questions have arisen, a couple of intemperate remarks, I think, do not disqualify her. If intemperate remarks were disqualifiers, there wouldn't be any Federal judges, there wouldn't be any Senators or anybody in any other positions. Questions have arisen about her sentencing. Out of 4,000 cases, 95 appeals were taken and reversals in only 14 cases. I urge my colleagues to support Judge Frederica Massiah-Jackson so we can fill a vacancy on the Federal court.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING S. 830

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now turn to the conference report accompanying the FDA reform bill; that it be considered as having been read; that there be 30 minutes for debate equally divided between the chairman and ranking minority member, with an additional 5 minutes for Senator REED of Rhode Island; and that following the conclusion or yielding back of time, the Senate proceed to vote on the adoption of the conference report, all without further action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. As I understand this, we now have an hour of debate?

Mr. JEFFORDS. Half hour; 30 minutes.

Mr. HARKIN. And then we will vote.

Mr. JEFFORDS. Right.

Mr. HARKIN. It will be a recorded vote.

Mr. JEFFORDS. No, it will not be. It depends on the body, but it is intended to be a voice vote.

Mr. HARKIN. Thirty minutes of debate, a voice vote and then there will be no pending business after that? What will the pending business be after that voice vote?

The PRESIDING OFFICER. The pending business is the fast-track bill. My understanding of the request of the Senator from Vermont was 30 minutes equally divided, plus an additional 5 minutes for the Senator from Rhode Island.

Mr. HARKIN. Mr. President, since everybody else seems to be getting in line, I wonder if I can amend that to ask unanimous consent that after the disposition of this bill, after the voice vote, which I understand is included in your disposition, after the disposition of this bill, that the Senator from Iowa be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I was wondering if we could ask for 40 minutes. I have a couple of Senators on our side who would like time, who have been very active on this issue. Perhaps we could have a few more minutes so that we could accommodate their requests. Would that be agreeable?

Mr. JEFFORDS. Does that include the Senator from Iowa?

Mr. HARKIN. No.

Mr. KENNEDY. No.

Mr. JEFFORDS. Yes. I have an objection to the request from the Senator from Iowa.

Mr. KENNEDY. Mr. President, could we have 40 minutes then on the bill?

Mr. JEFFORDS. I have no objection to the Senator from Iowa being recognized as in morning business for a period of 10 minutes after the vote.

Mr. HARKIN. I understand that after the vote on this bill, the pending bill is the fast-track bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I ask unanimous consent that after disposition of this bill, the Senator from Iowa be recognized to speak on the fast-track bill. That is all.

The PRESIDING OFFICER. Is there objection to the request?

Mr. JEFFORDS. It would have to be in morning business.

Mr. HARKIN. I don't understand why it has to be in morning business.

Mr. JEFFORDS. It is my understanding from the majority leader that the 10 minutes the Senator is requesting should occur as in morning business. That is all I can tell you.

Mr. KENNEDY. If the Senator would be recognized for 10 minutes——

Mr. JEFFORDS. I believe the Senator would be recognized for 10 minutes, but it would be in morning business.

Mr. HARKIN. I want to ask unanimous consent that the Senator from Iowa be recognized for up to 20 minutes after the disposition of this bill.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. JEFFORDS. Objection. I object.

Mr. HARKIN. Then I will object to that unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. JEFFORDS. 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. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now turn to the conference report to accompany the FDA bill, and the conference report be considered as having been read, and that there be 40 minutes of debate equally divided, and that following the conclusion or yielding back of time, the Senate proceed to a vote for adoption of the conference report, all without further action or debate.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Reserving the right to object, I don't know what I did, but a few minutes ago I had 5 minutes. There wasn't 5 minutes——

Mr. JEFFORDS. Then I will amend it to ask unanimous consent to add an additional 5 minutes for the Senator from Rhode Island, Senator REED.

Mr. REED. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. HARKIN. Reserving the right to object, I ask unanimous consent to amend that unanimous consent so the Senator from Iowa would be allowed 20 minutes in morning business after the disposition of it.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the Senator from Iowa?

The PRESIDING OFFICER. Without objection, the entire unanimous-consent request is agreed to.

FOOD AND DRUG ADMINISTRATION MODERNIZATION ACT OF 1997—CONFERENCE REPORT

Mr. JEFFORDS. Mr. President, I submit a report of the committee of conference on the bill (S. 830) 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, and for other purposes, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 830), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 9, 1997.)

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, before us is the conference report on S. 830, the Food and Drug Administration Modernization Act. This is really an excellent moment to bring this up and consider what has been accomplished.

This bill represents the first major reform of the Food and Drug Administration in some 30 years. For our committee, it is the second major reform

that we have accomplished this session, the first one being special education, which was the first major reform for that program in some 20 years.

I am very pleased to be able to say to my colleagues that the FDA measure embodies the objectives we originally sought to accomplish.

This legislation achieves two important goals.

First, it helps the FDA to get medicine and medical devices to patients and doctors sooner and safer.

And, second, it will extend and improve the Prescription Drug User Fee Act, commonly known as PDUFA.

I am pleased to report that the conference report has the unanimous support of the conferees. It deserves the unanimous support of this body as well.

The conference report is the culmination of 3 years of hard work by dozens of Senators. It offers the most substantial reform of the Food, Drug and Cosmetic Act in decades and will have a positive impact on the lives of millions of Americans for decades to come.

Think how the world of medicine has changed over the past two or three decades. The law that governs much of that world, and nearly $1 of every $3 spent by consumers, must change and adapt as well.

The measure makes scores of changes in the law that ensures the safety of the food we eat, of the drugs we use to fight disease, and the medical devices we use to improve the health of Americans. It will help patients gain access to new therapies sooner without weakening either safety requirements or the authority of the FDA. It gives the agency needed tools and resources to manage an increasing workload more efficiently. In addition, it contributes to our maintaining America's technological leadership in producing pharmaceuticals and medical devices.

Achieving these reforms is a win-win-win situation for consumers, for the FDA, and for manufacturers. It is a win for patients and consumers, who will gain access to previously unavailable information and obtain better therapy sooner. It is a win for the FDA, which will receive new, sorely needed resources and streamlining and modernization of bureaucratic processes that have not changed in decades. And it is a win for the manufacturers, who will have a certainty that the review and approval processes applied to their innovative products will be applied in a collaborative and consistent manner.

About 10 months ago, Mr. President, we embarked anew on an effort that some characterized as foolish—an effort to modernize the regulatory processes of the FDA. Many thought it could not be done. Some urged we merely extend PDUFA or we tackle only a few issues related to drug regulation and leave the comprehensive modernization to another day.

I am glad we did not choose either of these paths. Instead, we chose to forge a bill with broad, bipartisan support, one that took a broad view of the changes needed at the FDA.

In that regard, I particularly want to acknowledge the Democratic members of the Labor Committee, and especially Senators DODD, MIKULSKI, WELLSTONE, and MURRAY. They have made countless contributions to this legislation, large and small. Their tireless support has been critical in our success.

This measure is the result of the process to consult with individuals of all points of view and to benefit from the expertise needed to craft legislation on this complex issue. Patients, physicians, consumer groups, the FDA, and the manufacturers of medical devices and pharmaceuticals all contributed to this effort through their participation in hearings and in discussions with the staffs.

This effort was parallel to that of our colleagues in the House of Representatives, which, under the outstanding leadership of Chairman BLILEY, also produced a strong bipartisan bill with overwhelming support. The collaboration and consensus building has continued right up to the present, and the quality of this conference report we are considering today reflects that process.

Mr. President, we would not be here today if it were not for the effort of my predecessor as the chair of the Labor and Human Resources Committee, Senator Kassebaum. Her efforts to advance reform in the last Congress paved the way for our work here today. We owe her an enormous debt.

This year, there have been many Members in both Chambers who have contributed to this effort. Foremost among them has been Senator COATS. The list of provisions of this bill that bear his imprint is far too long to recite. But, as an example, the third-party review provision has been developed under his leadership, and he has played an important role in advancing FDA modernization throughout this process.

Senator GREGG is to be commended for his proposals to streamline the FDA process for consideration of health claims based on Federal research and his amendments to establish uniformity for the over-the-counter, OTC, drugs and cosmetics. Senator MCCONNELL also suggested improvements in the regulation of food.

I am especially grateful to Dr. FRIST. He and Senator MACK led the way to compromise on the issue of the dissemination of medical information to health professionals, an important advance forward.

Senator DEWINE, joined by Senator DODD, offered an important amendment to establish incentives for the conduct of research into pediatric uses for existing and new drugs, a needed change. The bill was improved by Senator HUTCHINSON's amendment to establish a rational framework for pharmacy compounding, which respects the State regulation of pharmacy while allowing an appropriate role for the FDA. And Senator HARKIN has made many contributions to this legislation.

Finally, the ranking minority member, Senator KENNEDY, has played an important role in bringing this conference report to the floor in a manner that draws support from all quarters.

In the House, Chairman BLILEY and Congressmen DINGELL, BURR, BURTON, GREENWOOD and WHITFIELD have contributed immense energy and leadership in reaching this agreement.

Mr. President, it has been a remarkable year, crowned by a remarkable, bipartisan achievement. And I thank my colleagues for their support.

Mr. President, I yield the floor and reserve my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have waited a very considerable time for this moment this afternoon in the U.S. Senate as well as action in the House of Representatives and, hopefully, the President's signature in the next few days on a matter of very significant importance to the issues of quality health for the American people.

It has been a very considerable process that we have followed over a number of years to get to this point.

I congratulate the chairman of our committee, Senator JEFFORDS, for his leadership all along this long and difficult passage, because I think without his perseverance, without his knowledge and awareness and his strong commitment on this issue, we would not have this important legislation available for the Senate and for the American people.

Mr. President, one could wonder why it has taken so much time. But we have a natural tension between bringing new innovation and creativity and breakthroughs in the areas of pharmaceutical drugs and medical devices to the market and, on the other hand, protecting the public by approving only safe and efficacious products. We have well-intentioned, brilliant medical researchers in our country who are absolutely convinced that their particular product can provide life-saving opportunities for our fellow citizens, members of our families, who are suffering extraordinary illness. And we have brilliant researchers at FDA that examine scientific information and clinical studies and believe that a very significant potential danger is out there for those who might use a particular pharmaceutical or medical device. Achieving a balance between these two concerns is a difficult task.

The one who has really balanced these conflicting views has been our chairman, Senator JEFFORDS, working diligently with other members of the committee, Democrats as well as Republicans, over a long period of time.

I am convinced that as a result of this legislation the health of the American people will be enhanced through faster availability to pharmaceutical drugs and medical devices while maintaining important protections for the

American people. I join in supporting this landmark FDA conference report.

This is a very important piece of legislation. I think in many respects this will be one of the most important pieces of legislation of this year, and possibly of this Congress.

Mr. President, I want to commend Chairman BLILEY, JOHN DINGELL, as well as Chairman BILIRAKIS, SHERROD BROWN and other members of the House committee for their bipartisan work. We had a good conference where Members were knowledgeable and very committed in terms of finding common ground. I believe as a result of this conference we have an even stronger bill than was passed earlier.

In addition, I commend the Patients' Coalition and Public Citizen, who worked to assure that the needs of patients were fully and fairly considered in the legislation. I appreciate the assistance of the Massachusetts biotechnology and medical device industries, who provided me with valuable insight into these complex issues and their concerns.

I also commend Secretary Shalala, the dedicated men and women at the FDA, and the Clinton administration for their skillful and impressive role in developing so many aspects of these needed reforms.

The most important part of the bill is the extension of the Prescription Drug User Fee Act [PDUFA] which was originally enacted in 1992. PDUFA is one of the most important FDA reform measures ever enacted. It provides funds for FDA to hire hundreds of new reviewers who, in turn, are able to expedite the review and approval of pharmaceutical products. A critical element of PDUFA's success was the establishment of measurable performance targets, which was negotiated between the industry and the FDA.

Under the PDUFA provisions in this bill, in addition to moving products through the regulatory process more quickly, the FDA and industry will also establish a cooperative working relationship and shorten drug and device development times, which now represent the most significant delay in bringing new products to market.

In addition, the bill includes a number of other constructive provisions to enhance cooperation between industry and the FDA to improve regulatory procedures.

I am particularly gratified that the bill includes broader use of fast-track drug approval. The streamlined accessibility procedure now available primarily to cancer or AIDS will be available for drug treatments for patients with all life-threatening diseases.

The bill provides for expanded access to drugs still under investigation for patients who have no other alternatives. The compromise combines protections for patients with expanded access to new investigational therapies, without exposing patients to unreasonable risks.

The bill includes a new program to provide access for patients to information about clinical trials for serious or life-threatening diseases.

It provides incentives for research on pediatric applications of approved drugs and for development of new antibiotics to deal with emerging, drug-resistant strains of disease.

It requires companies to give patients advance notification of discontinuance of important products. And in that connection, I am disappointed that we were not able to address the issue of assuring that asthma patients and others will not be put at risk by any abrupt discontinuance of inhalers containing CFCs. I have been informed by FDA that no notice of proposed rulemaking will be issued before this summer, which will give Congress plenty of time to return to this question, if necessary.

Mr. President, the current legislation is an improvement over the bill approved by the Labor Committee earlier this year—that bill included a number of provisions that as originally proposed could have jeopardized public health.

The original bill provided a pilot program for third-party review under which private third parties, certified by the Food and Drug Administration but selected and paid by the manufacturer, would have reviewed the safety and effectiveness of medical devices to determine whether or not they could be sold.

The original proposal would have included many of the most complex and risky devices, such as digital mammography machines, and a host of other devices to detect and treat cancer and other dread diseases.

Under the final bill, these devices may not be included in the pilot program.

The original bill required the Food and Drug Administration to approve devices for marketing even if the Food and Drug Administration knew defects in the manufacturing process would make the devices unsafe or ineffective. The final legislation eliminates this requirement.

The original bill would have prevented the Food and Drug Administration from looking behind the label proposed by a device manufacturer seeking approval of a product, even if the product was false or misleading. The final legislation assures that the Food and Drug Administration will be able to require full and complete information for physicians and consumers on any potential use of the device, not just the one claimed on the label submitted with the application for approval.

And the final legislation preserves the State authority to regulate cosmetics, an area of significant potential hazard to consumers.

The legislation includes an important compromise on information on off-label use of drugs. This compromise will allow companies to circulate reputable journal articles about off-label use of drugs but will ultimately enhance the public health and safety because the FDA will be given the opportunity to review, comment on, and approve articles which the companies will circulate. The compromise also requires companies to undertake studies on the safety of their drugs for the specific off-label use and submit applications to the FDA for approval of their drugs for these uses within 3 years. Currently, too many off-label uses of drugs have never been reviewed for safety and effectiveness.

The bill assures the Food and Drug Administration will continue to conduct appropriate environmental impact statements, rather than be exempted from the standards that apply to every other governmental agency.

The compromise included in the bill assures the Nutrition Labeling Act is not undercut or weakened, and any health claims by food manufacturers have to be substantiated.

The legislation maintains existing standards for approval of supplemental use of drugs while streamlining the process by which they can be approved.

In summary, the current legislation is a vast improvement over the bill approved by our committee earlier this year. As a result of extensive discussion since then, including the 3 weeks of debate in the full Senate and our subsequent negotiations with the House, I believe every one of these problem issues has been resolved satisfactorily.

The bill we enact will get safe and effective products to market while assuring the Food and Drug Administration will have the tools it needs for public health. It is a landmark achievement. I urge all of my colleagues to support it.

Mr. JEFFORDS. Mr. President, I yield 4 minutes to the Senator from Tennessee.

Mr. KERRY. Mr. President, my understanding is when this business is completed that Senator HARKIN has unanimous consent for 20 minutes, and I ask unanimous consent, following Senator HARKIN, I be permitted to speak in morning business for 20 minutes.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. COATS. Reserving the right to object, I don't intend to object, but I know there is an effort underway to try and bring the omnibus appropriations bill forward and I know a lot of Members are waiting around so they can take that vote. In fact, I was discussing that.

This isn't my call, but I ask the Senator if he could withhold until we can get some understanding of when that vote might be. It might be that it won't come before the Senator's 20 minutes, but if we add time here, 20 minutes there, and an additional 20 minutes, it could delay past the time when they now have commitments. I want to make sure we check that out.

Mr. KERRY. If I could allow my order to stand, I would be sensitive to

the need for a vote, and if need be, I will respond.

Mr. COATS. I accept that, and withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, 3 years of hard work, which was begun by Senator Nancy Kassebaum, have resulted in the passage of the conference report to the Food and Drug Administration Modernization Act of 1997 in the Senate today. This legislation represents the first major, comprehensive reform effort since the initial amendments outlining regulation for drugs in 1962 and for medical devices in 1976. This major reform will help improve the FDA by strengthening its efficiency, accountability, and its ability to safeguard the public health.

There are several provisions contained in this bill that constitute significant reform and improvements to increase the efficiency of product review. For example, this legislation gives FDA authority to increase its access to scientific and technical expertise outside the Agency by allowing interagency collaboration with Federal agencies such as the NIH and CDC, and with the National Academy of Sciences. Also, the bill gives FDA the explicit authority to contract with outside reviewers and expand its current third party medical device review pilot program.

To help alleviate the confusion and frustration that many applicants feel when working with the FDA, the bill will require the FDA to codify evidence requirements for new drug and medical device application submissions and encourages improved communication between the agency and industry. And after 60 years, the FDA will be made more accountable by giving it a mission statement and requiring the FDA to develop a plan of action to meet its requirements under law. The bill will also reauthorize for 5 years the Prescription Drug User Fee Act, known as PDUFA, which has been tremendously successful in improving and speeding the review of much needed pharmaceutical products.

Most importantly, the bill Congress sends to the President will help patients. Individuals with a serious life-threatening disease or condition will have access to a new clinical trial database providing information on investigational therapies. Patients will benefit from the expansion of the fast-track drug approval process for new drugs intended for the treatment of serious or life-threatening conditions built on the existing program for AIDS and cancer drugs. And, patients that have no other alternative but to try an unapproved investigational product will have access to investigational therapies and medical devices.

The bill also includes a provision that will allow reprints of scientifically, peer-reviewed medical journal articles and medical textbooks about off-label uses of FDA-approved drugs and devices to be shared with physicians and other health care practitioners. This provision will help get life-saving information to doctors, so they can be better informed when making decisions about how to treat their patients.

As a physician, I have used off-label uses to treat my patients in the past and understand its tremendous importance to the patient. Over 90 percent of treatments for cancer patients are off-label and the American Medical Association has estimated that between 40 percent and 60 percent of all prescriptions are for off-label uses of prescription drugs. I would like to acknowledge the tremendous work on this provision during the last few years by my friend, Senator CONNIE MACK and Mark Smith of his staff.

There are a number of people who worked hard to insure passage of this reform effort. I would like to thank Senator JEFFORDS, the chairman of the Labor and Human Resources Committee, for leading the bipartisan effort on FDA Reform in the Senate. I also acknowledge the leadership of Senator COATS, who has done significant work on provisions affecting medical devices in the bill. I also thank Senators GREGG, DEWINE, DODD, MILKULSKI, KENNEDY and HARKIN and their staffs for their hard work in conference. I would like to thank our House colleagues and their staffs who worked with us in conference and I especially recognize the able leadership of the chairman of the House Commerce Committee Representative TOM BLILEY and the ranking member JOHN DINGELL. I would also like to acknowledge and thank Secretary Donna Shalala and the FDA for working with us to help modernize and improve the FDA.

In particular, I would like to thank Jay Hawkins, Mark Powden, and Sean Donahue of Senator JEFFORDS' staff, Vince Ventimiglia of Senator COATS' staff, and Kimberly Spaulding of Senator GREGG's staff who were critical to the development of the bill. I thank them for their dedication and tireless effort on this important bill.

I especially want to thank the tireless work and outstanding leadership of Sue Ramthun, my staff director for health affairs, who has been so instrumental in passage of this bill.

I believe we have made a step in the right direction that will improve patient care and that this bill begins the debate on the long-term investment necessary to move the agency forward in areas such as regulatory research, professional development, and collaborative efforts between Government and academia, and I hope to continue working with my colleagues in a bipartisan manner to further improve the FDA in the following years.

Mr. KENNEDY. I yield 2 minutes to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I am so happy this day has finally come, in which the U.S. Senate, and I believe the House, will pass a conference report to modernize the Food and Drug Administration and to bring it into a 21st century framework.

I want to thank Senator JEFFORDS for the patient leadership he has provided in moving this bill, and a special thanks for the collegiality of his staff in working with mine. I also would like to acknowledge the special role that Senator COATS has played. I have enjoyed working with him these last 3 years. We will miss him here as he undertakes next year a new life in encouraging faith-based community groups to become more involved. I think in this bipartisan collegial exchange we have come up with an outstanding bill that is going to save lives, save jobs in the United States of America, give us a product to export around the world that is translingual, transcultural, but certainly helps our people and at the same time puts patients first.

I want to particularly thank my own staff, Lynne Lawrence, for the active work she has done, and Roberta Haeberle and Kerry O'Toole in the excellent backup they have provided.

Why do I like this bill? First of all, we reauthorize the Prescription Drug User Fee Act. What this will mean is we will be able to have 600 reviewers who will be able to work at the Food and Drug Administration making sure that we cut the review time, streamline the process, be able to move drugs, biologics and devices for clinical practice in a more expedited fashion, and at the same time be able to protect safety and efficacy. We do protect safety and efficacy while we move along at a quicker step with more people.

A reauthorization of PDUFA gives us the right people and now we have the right legislative framework to do it. One of the important aspects of this legislation is the streamlining process, and yet at the same time maintaining safety and efficacy upon the approval process so more and more clinical things will be able to go into clinical practice.

I am delighted that this day has finally arrived. It is a great day for patients and physicians. They will get new medical products in a more timely and efficient manner. It is a great day for American business. They won't have to go through unnecessary regulatory hoops to get these new products on the market.

This legislation, carefully crafted between the House and Senate, represents a solid, bipartisan effort. We could not have reached this point without the incredible dedication and persistence of the chairman of the Labor Committee, Mr. JEFFORDS. I thank him for his heartfelt devotion to this bill, and for never giving up. I also thank his staff, Jay Hawkins, Sean Donohue, and Mark Powden for all their hard work.

Let me also acknowledge the tremendous contributions of our ranking

member, Mr. KENNEDY. There is no doubt this is a better bill because of his efforts. I also want to acknowledge the hard work of our counterparts in the House, the chairman of the Commerce Committee, Mr. BLILEY and the ranking member, Mr. DINGELL. Many thanks also go to the fine staff of the Commerce Committee for their excellent work.

Mr. President, I have worked on FDA reform for a number of years. When I was a Member of the House of Representatives, we embarked, on a bipartisan basis, to ensure consumer protection and to prevent dumping drugs that did not meet our standards on Third World countries.

Coming to the Senate, I joined with my colleague from Massachusetts, Mr. KENNEDY, and the Senator from Utah, Mr. HATCH, in fashioning the Prescription Drug User Fee Act [PDUFA]. PDUFA has enabled FDA to hire more people to examine products that were being presented for evaluation and get them to patients more quickly.

The leadership of KENNEDY-HATCH on PDUFA has not only stood the test of time, it has shown that we can expedite the drug approval process while maintaining safety and efficacy. I am so pleased that this successful legislation will be reauthorized for 5 years.

But while PDUFA has made a huge difference, it became clear PDUFA was not enough. More staff operating in an outdated regulatory framework, without a clear legislative framework, was deficient.

That is when we began to consult with experts in public health, particularly those involved in drugs and biologics. While we were considering all this, the world of science was changing. We experienced a revolution in biology. We went from a smokestack economy to a cyberspace economy. We went from basic discoveries in science from the field of chemistry and physics to a whole new explosion in biology, in genetics and biologic materials.

It became clear we needed an FDA with a new legislative framework and a new culture. This is when we began to put together what we called the sensible center on FDA reform. We worked with Republicans and Democrats alike, because we certainly never want to play politics with the lives of the American people.

Senator Kassebaum chaired the committee during this initiative. We took important steps forward. I say to Senator JEFFORDS, you assumed that mantle, and you brought us to the point today where we will achieve final passage of FDA reform. I thank you for that.

What will this legislation do? Why is it so important? It streamlines and updates the regulatory process for new products. It reauthorizes the highly successful Prescription Drug User Fee Act. And it creates an FDA that rewards significant science while protecting public health.

It will mean that new lifesaving drugs and devices will get into clinical practice more quickly. It will enable us to produce products that we can sell around the world, and through this, save lives and generate jobs.

FDA is known the world over as the gold standard for product approval. We want to maintain that high standard. At the same time, we want to make sure that FDA can enter the 21st century.

This legislation gets us there. It sets up a new legislative and regulatory framework that reflects the latest scientific advancements. The framework continues FDA's strong mission to protect public health and safety. At the same time, it sets a new goal for FDA, enhancing public health by not impeding innovation or product availability through unnecessary redtape that only delays approval.

There has been an urgency about reauthorizing PDUFA. Its authority expires at the end of September. PDUFA has enabled FDA to hire 600 new reviewers and cut review times from 29 to 17 months over the last 5 years. Acting now means that people who have been working on behalf of the American people can continue to do their jobs. We won't risk losing talented employees and slowing down the drug approval process.

Delay would have hurt dedicated employees, but more importantly, it would have hurt patients. Patients benefit most from this legislation. Safe and effective new medicines will be getting to patients quicker.

We're not only extending PDUFA; we're improving it. Currently, PDUFA only addresses the review phase of the approval process. Our legislation expands PDUFA to streamline the early drug development phase as well.

Instead of a carload of paper—stacks and stacks of material—being deposited at the FDA's front door, companies will be able to make electronic submissions. This not only reduces paperwork, but actually provides a more agile way for scientific reviewers to get through the data.

Updating the approval process for biotech is another critical component of this bill. Biotech is one of the fastest growing industries in our country. There are 143 biotech companies like that in my own State of Maryland. They are working on AIDS, Alzheimer's, breast and ovarian cancer, and other life-threatening infections such as whooping cough.

The job of FDA is to make sure that safe and effective products get to patients. Our job as Members of Congress is to fund scientific research and to provide FDA the regulatory and legislative frameworks to evaluate new products and make them available to doctors and patients.

This is why I fought so hard for this. This is exactly why I fought for this. My dear father died of Alzheimer's, and it did not matter that I was a U.S. Senator. I watched my father die one brain cell at a time, and it did not matter what my job was.

My father was a modest man. He did not want a fancy tombstone or a lot of other things, but I vowed I would do all I can for research in this and to help other people along these lines.

Every one of us has faced some type of tragedy in our lives where we looked to the American medical and pharmaceutical, biological, and device community to help us.

When my mother had one of her last terrible heart attacks that was leading rapidly to a stroke—there was a new drug that is so sophisticated that it must be administered very quickly. You need informed consent because even though it is approved, it is so dramatic that it thins the blood almost to the hemophilia level. I gave that approval because my mother was not conscious enough to do it.

Guess what? That new drug approved by FDA, developed in San Francisco, got my mother through her medical crisis with the hands-on care of the Sisters of Mercy in Baltimore at Mercy Hospital. Mother did not have a stroke because we could avoid the clotting that would have precipitated it.

Thanks to the grace of God and the ingenuity of American medicine, we had my mother with us 100 more days in a way that she could function at home, have conversations with us and her grandchildren.

Do you think I am not for FDA? You think I am not for safety? You think I am not for efficacy? You bet I am. And this is what this is all about. It is not a battle of wills. It is not a battle over this line item or that line item. It is really a battle to make sure that the American people have from their physicians and clinical practitioners the best devices and products to be able to save lives. That's why I'm so pleased that we were able to achieve a bipartisan bill.

So, Mr. President, I thank you for the time. If I seem a little emotional about it, you bet I am. I love FDA. I am really proud they are in my State. I thank God for the ingenuity of the American medical community. And that is why I am so pleased we will be voting on the conference report today.

All of us are happy that this bill will finally pass.

Mr. JEFFORDS. Mr. President, I yield Senator COATS 4 minutes. He is a man whose tenaciousness and ability have made this a better bill.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 4 minutes.

Mr. COATS. Mr. President, as the Senator from Vermont has said, this is the first reform in 30 years at FDA. Obviously, a lot has changed in the industry. New drugs and new devices, new methods of bringing life-saving and health-improving benefits to the American people, and the people of the world. I think it is remarkable, particularly given the fact that it has been nearly 2½, 3 years now that we have been specifically working on this legislation in the committee, through a

number of hearings, through a considerable, lengthy, and complex committee consideration, extensive floor debate. There were very difficult procedural hurdles to overcome and a difficult conference. We now arrive at this point with a bill that, very shortly, will be passed. This has only been done with a bipartisan effort.

I want to return the compliment to the Senator from Maryland. I thank her for that. I am not sure that everyone is going to miss me around this place, given my role in this bill, in trying to bring it forward. But I thank her for her kind words. Senators DODD, MIKULSKI, HARKIN, and WELLSTONE joined Republicans in the committee to produce a bipartisan piece of legislation, and they supported us on the floor. I thank Senator JEFFORDS and his leadership, and Senator GREGG, Senator FRIST, Senator DEWINE, and others on the Republican side, who contributed to the effort in moving the bill forward.

I would be remiss not to acknowledge the extraordinary work of so many staff people that helped to move this forward.

I thank my chief of staff, Sharon Soderstrom, and particularly Vince Ventimiglia, someone whose tireless efforts and thorough knowledge of the issues at hand, and at whose persistence we continued through all of the obstacles placed in the way of this legislation, and it was all accomplished in a manner of courtesy and respect, which is, unfortunately, all too rare around this place. He is an exceptional person. I don't believe we would be here without his efforts—even though he is not here right now; he is probably digging through the bill to make sure all the t's are crossed and the i's are dotted. He was exceptional in this whole effort.

This bill provides help to the Food and Drug Administration, who did not have the capacity nor, I believe, in the past, the managerial leadership that allowed FDA to keep pace with the marvelous breakthroughs we have had in the pharmaceutical and medical device area, which brings life-saving benefits and health-improving benefits to people. Six-hundred additional people, paid for by the industry in a tax against them to reauthorize PDUFA, will help speed up the drug approval process.

Now, for the first time, we give assistance to FDA on medical devices because we have a procedure where outside parties can, with FDA certification, approval and oversight, review medical device applications. This is going to provide for the medical device section what PDUFA provided for the drug section. This was a very critical part of the legislation, and I am pleased that it was retained in our efforts.

We are here and it is a victory for the American people. It took a lot of effort by a lot of people. It is a testament to the persistence of many, some of whom are speaking here on the floor today. I am proud to play a role in this effort because I believe we are addressing some fundamental concerns, going to the very health and safety and very lives of the American people and people throughout the world. Mr. President, it is with that, I yield whatever remaining time I have.

Mr. KENNEDY. Mr. President, I will yield 5 minutes to the Senator from Rhode Island, but first I yield myself 15 seconds.

I want to give the assurance to my friend and colleague from Indiana, as one that didn't always see eye to eye with the good Senator on some of these issues, I pay tribute to him for the strength of his commitment and the power of his logic and argument, and the passion which he has demonstrated out here.

I have enjoyed his friendship and have always valued the opportunity to exchange ideas with him.

Mr. COATS. I thank the Senator. We have had some interesting exchanges of ideas.

Mr. REED. Mr. President, I believe I have 5 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. REED. Mr. President, I rise today in support of the conference report on S. 830, the Food and Drug Administration Modernization and Accountability Act of 1997. This is an important bill with serious implications for the protection of the health of the American people. Although I did not support this bill when it was first considered on the floor of the Senate, I am pleased that significant changes have been made and that this final version of the legislation is worthy of support.

This FDA reform bill is the result of ongoing negotiations both prior to and subsequent to the Labor Committee's markup of the bill. Through this process, a number of provisions that seriously threatened public health and safety were dropped or otherwise resolved. I am particularly pleased that improvements made include important protections to the third party review process. Significant changes and additions also include provisions regarding health claims for food products, health care economic claims, a notice of discontinuance when a sole manufacturer stops producing a drug, and a range of other items.

The original Senate-passed bill contained a provision regarding the FDA device approval process that posed a serious threat to public health. In effect, the Senate-passed bill would have limited the FDS's current authority to ask device manufacturers for safety data. It would have prohibited the FDA from considering how a new device could be used if the manufacturer has not included that use in the proposed labeling. As a general matter, the FDA does not consider uses that the manufacturer has not included in its proposed labeling. However, there are instances when the label does not tell the whole story. It is these instances—when the label is false or misleading—that my and Senator KENNEDY's amendment addressed.

I was not alone in my concern about this issue. Indeed, this provision was also identified as worthy of a veto threat by the administration. The Secretary of the Department of Health and Human Services said on numerous occasions that if this provision were not changed, that she and other top Presidential advisers would recommend that President Clinton veto this bill.

By accepting the House language on this device labeling issue, the conferees have struck a reasonable compromise that will give the FDA the authority it needs to ensure that medical devices are safe and effective. In this case, the legislative process has worked, and worked well. I commend the conference committee for the sensible compromise they reached on this important issue.

The FDA is responsible for assuring that the Nation's food supply is pure and healthy and to provide a guarantee that drugs and devices are safe and effective. The FDA has an immense impact on the lives of all Americans. Indeed, the FDA's mandate requires it to regulate over one-third of our Nation's products. Few Government agencies provide this kind of important protection for the American people. On a daily basis, the FDA faces the delicate balance between ensuring that patients have swift access to new drugs and devices while guaranteeing that those new products are safe and effective.

The bill we are considering today contains many positive elements. It reauthorizes the important Prescription Drug User Fee Act, one of the most effective regulatory reforms ever enacted. The legislation also includes a number of provisions that will improve and streamline the regulation of prescription drugs, biologic products, and medical devices. I believe that these important reforms to the operation of the Food and Drug Administration will increase its efficiency and speed the delivery of important new medical treatments to patients.

One of the most important elements of this legislation is the aforementioned reauthorization of the Prescription Drug User Fee Act, often referred to as PDUFA. PDUFA established an important partnership between the agency and the industry, and has successfully streamlined the drug approval process.

I am pleased that this bill will provide expedited access to investigational therapies. This provision builds on current FDA programs related to AIDS and cancer drugs. Another important element will allow the designation of some drugs as ''fast-track'' medications, thus facilitating development and expediting approval of new treatments of serious or life-threatening conditions. The bill will also require the Secretary of the Department of

Health and Human Services to establish a data base on the status of clinical trials relating to the treatment, detection, and prevention of serious or life-threatening diseases and conditions. Patients have long needed access to such information, and I am pleased that this bill provides a mechanism to grant it.

I am also pleased that this bill contains my amendment requiring that within 18 months of the date of enactment, the FDA must issue regulations for sunburn prevention and treatment products. In August 1978, the FDA published an advance notice of proposed rulemaking to establish a monograph for over-the-counter sunscreen drug products. To date—almost 20 years later—while progress has been made, this rule has not been made final.

Sunburn prevention and treatment products can go far to help prevent sun exposure related to skin cancer. The facts on skin cancer are compelling: one person an hour dies of malignant melanoma; half of all new cancers are skin cancers; one million Americans will develop skin cancer this year, making it nearly as common as all other types of cancer combined.

The Food and Drug Administration has a key role in our response to this skin cancer epidemic through the regulation of safe and effective sunburn prevention products that are vital to avoiding skin damage from the sun's rays.

Mr. President, I am pleased that this compromise is a bill that I can support. I look forward to working with my colleagues to oversee the implementation of this important legislation and to ensure that its provisions streamline FDA processes while also protecting the public health of the American people.

I compliment Chairman JEFFORDS, Senator KENNEDY, and many other colleagues in both the Senate and the House of Representatives who have worked hard on this bill together to eliminate many other troublesome provisions in the bill as originally introduced.

Mr. President, again, I support the conference report on S. 830, the FDA reform bill. The challenge throughout this process has been to balance a more efficient, streamlined, and productive FDA with their obligation to protect the public health. It has been a difficult task, but we made remarkable progress over the last several months. At the committee level, there was a serious discussion and debate. I could not support that version because at that time there were still outstanding issues which I thought could jeopardize the public health and safety.

When we reached the floor, there was another serious and productive debate about this legislation. Once again, I felt there were issues that had to be further addressed before I could support the measure. Today, happily, through the work of the conferees and colleagues on the floor today, we have reached a point where we have legislation that both provides for a streamlined, productive, and efficient FDA, and continues to give FDA the authority to protect the public health.

With specific regard to the debate on the floor, there was one major issue that I felt was very important, and that was to allow the FDA to have the authority to carefully review medical devices that may be used by the public. The legislation at that time circumscribed significantly the ability of the FDA to look beyond the label, look beyond the listed use by the manufacturer, to contemplate possible other uses that may take place when the product is in the stream of commerce. Fortunately, through the work of the conferees, this situation has been resolved.

Indeed, on the floor I offered an amendment with Senator KENNEDY. It did not pass, but I think that effort helped spur a concentrated effort during the conference to develop a legislative formula to give the FDA the power to regulate these devices appropriately.

We have many, many things to be thankful for in this bill. One issue I would like to address, also, which does not rise up, in some respects, to the major reforms, PDUFA or these issues, but it is critically important; that is, the issue of protecting the public with respect to sunscreen products and sunburn products. I am pleased to note that the FDA has been directed to promulgate regulations within 18 months with respect to these products which are sold to the public to protect them from the Sun. This might seem like an innocent product, but, in fact, we are seeing a remarkable growth in incidence of skin cancer throughout the United States. One person an hour dies of malignant melanoma, skin cancer. Half of all the new cancers developing are skin cancer. One million Americans will develop skin cancer this year alone. So we have to begin to focus our attention on those products which are advertised to protect the American public.

Once again, I think this is totally consistent with the role of the FDA. I am pleased that this provision has been included in the legislation.

Let me conclude by saying, again, I believe we have struck the vital balance between an efficient, productive FDA and their obligation, historically and statutorily, to protect the public health. We have done that through the work of Senators JEFFORDS, KENNEDY, and many others. I personally thank them and applaud them for their efforts today.

I would be remiss if I didn't also thank my staff member, Bonnie Hogue, for her help through this entire process. I yield the balance of my time.

Mr. JEFFORDS. Mr. President, I will now yield to the Senator from Utah, who has been a tremendous help over the years on FDA. In fact, I am going to give him all the rest of my time —all 3 minutes.

Mr. HATCH. Mr. President, I wanted to take this brief opportunity to commend Chairman JEFFORDS for a job well done—for producing a bill which will dramatically improve the way the Food and Drug Administration does business as we move into the 21st century.

That has been one of my top priorities during my service in the Senate. I am proud that we are having the opportunity today to vote on this historic legislation which will have so many benefits for my State of Utah.

Utah is the home to over 100 medical device manufacturers, and several pharmaceutical manufacturers as well. We also are the Nation's leading producer of dietary supplements.

The Utah Life Sciences Industries Association, the leading trade association for Utah device and drug manufacturers, has worked closely with the Congress in formulating this legislation, which will have many positive effects for Utah.

On behalf of our Utah drug and device manufacturers, let me thank you Chairman JEFFORDS, and our colleague in the House, Chairman TOM BLILEY, for producing a bill which has encouraged the FDA to work in a more collaborative manner and to get the job done, to get it done professionally and expeditiously, without all the bureaucratic hassles we have experienced in the past.

And on behalf of the dietary supplement manufacturers, and most importantly the 100 million or so consumers—most of whom seem to have called our offices in the last few weeks—let me thank you for making sure that the bill does not undo the Dietary Supplement Health and Education Act in any way and that dietary supplements will remain what they are, food products, not drugs.

Finally, I wish to thank all of the staff who worked literally through the night to make today's passage of the conference report for S. 830 possible. You can be proud of your work.

RETIREMENT OF KATHLEEN ''KAY'' HOLCOMBE

Mr. HATCH. Mr. President, I could not let this opportunity pass without recognizing the extraordinary contribution that Kay Holcombe has made during almost 25 years of Government service.

Kay, who currently serves as the top health staffer on my good friend Representative JOHN DINGELL's Commerce Committee staff, has worked in a variety of positions in Government, including 6 years on Capitol Hill. Unfortunately for us, she plans to retire at the end of this session—while a fantastic opportunity for her, a regrettable loss the Congress and the Nation.

I grew to know and appreciate Kay in 1984, when I was chairman of the Labor Committee and Kay joined our staff as an American Political Science Association congressional fellow. What Kay

brought to that job was considerable. She is bright, witty, an expert on any issue she studies, and, above all, a true professional who puts good policy above politics.

What I recall most vividly about Kay's period on the Labor Committee was her incredible ability to juggle lots of balls without dropping any of them. I could always count on her to get the job done, and, in fact, to do her job and the job of three others.

I believe that Kay stands out among Government employees for the common sense she brings to any position and for an ability to bring consensus to the most difficult of issues.

We are witnessing that ability today with passage of the conference report on the FDA reform bill, a bill which—quite simply—would not have been possible without Kay Holcombe.

Her work on the Dietary Supplement Health and Education Act also stands out in my mind, where Kay's knowledge and skills as a tactician helped us overcome many an impasse. And, I might add, she was, and I suspect is, the only staffer in the Capitol who understands many of the words we wrote into that act, the most memorable of which was ''lyophilize''.

Her background as a bench scientist at NIH, with subsequent experience in almost every one of the Public Health Service agencies, is a record of accomplishment and experience that cannot be matched on Capitol Hill.

I, for one, will miss Kay's expertise sorely. And while I am thrilled for her as she enters this challenging new period in her life, and I am saddened at our loss here in the Congress.

To Kay, her husband Frank, her daughter and son-in-law Anne and Tony, and her mother Ginny, I wish the best as the family enters a new period of life after Capitol Hill. I hope it will be happy indeed.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 8 minutes 33 seconds.

Mr. KENNEDY. I yield 4 minutes 33 seconds to the Senator from Connecticut.

Mr. DODD. Mr. President, I want to begin by thanking my colleagues who have spent innumerable hours creating a bill that will bring lifesaving drugs and medical devices to the American people more quickly and efficiently, without compromising safety or effectiveness.

First, Senator JEFFORDS is to be commended for his leadership. His staff, most notably Jay Hawkins and Sean Donahue, also deserve our appreciation for their hard work and dedication to seeing this legislation enacted.

Although the process was at times a difficult one, I'm pleased to say that a spirit of bipartisanship and compromise ultimately prevailed, as evidenced by the overwhelming Senate vote of 98 to 2 in September on this bill.

I'd also like to thank my fellow Senate conferees—Senators KENNEDY, COATS, HARKIN, GREGG, MIKULSKI, FRIST, and DEWINE for their successful efforts to negotiate a workable compromise with our colleagues in the House.

We should take pride in the legislation that has been created—the first substantial update of FDA's rules for regulating drugs and devices since the 1970's.

We should take pride in the fact that this bill will speed critical products to patients without compromising the high safety standards that Americans have come to rely on.

Mr. President, I'd like to speak for a moment about some of the positive reforms contained in this bill.

At the heart of the bill is the 5-year reauthorization of PDUFA, the Prescription Drug User Fee Act—a piece of legislation remarkable for the fact that there is unanimous agreement that it really works.

In the 5 years since this initiative was created, the fees collected under PDUFA have cut drug approval times in half. With its renewal as part of this bill, we can expect drug approval times to drop an additional 10 to 16 months.

In addition, by improving the certainty of product review process, this bill encourages U.S. companies to continue to develop and manufacture in the United States. This bill asks the FDA and industry to begin collaborating early in the approval process to prevent misunderstandings about agency expectations that ultimately could delay a needed product from reaching consumers.

This bill also establishes or expands upon several mechanisms to provide patients and other consumers with greater access to information and to lifesaving products.

For example, this bill will give individuals with lifethreatening illnesses greater access to information about ongoing clinical trials of drugs—information that may offer the only hope for those patients who have not benefited from treatments already on the market.

Based on a bill originally championed by Senators SNOWE and FEINSTEIN, I offered an amendment in committee, which I was pleased to see adopted, to expand an existing AIDS database to include clinical trials for all serious or lifethreatening diseases.

Individuals struggling with chronic and debilitating diseases should not be burdened with the daunting task of searching, without assistance, to locate studies of promising treatments. This database will provide one-stop-shopping to help those patients quickly and easily access vital information.

Mr. President, I am particularly pleased that this bill incorporates the Better Pharmaceuticals for Children Act, legislation originally introduced by our former colleague from Kansas, Senator Kassebaum, and now cosponsored by myself and Senator DEWINE.

This provision addresses the problem of the lack of information about how drugs work on children, a problem that President Clinton recognized recently as a national crisis.

According to the American Academy of Pediatrics, only one-fifth of all drugs on the market have been tested for their safety and effectiveness in children. This legislation provides a fair and reasonable market incentive for drug companies to make the extra effort needed to test their products for use by children.

I was pleased to join Senator JEFFORDS as the first Democratic cosponsor of this bill. I would thank him again for the hard work and long hours that he and his staff have contributed.

I look forward to joining my colleagues in voting in favor of this legislation.

Let me join here, Mr. President, the chorus of praise for those who have been involved in putting this bill together. It has been a long journey and not always an easy one, but I think the final product is a good one. I commend the chairman of the committee, Senator JEFFORDS, and his staff, Jay Hawkins, Sean Donohue, Jeanne Ireland of my staff, for their hard work and dedication in seeing this process to its conclusion. We swept the Senate with an overwhelming vote of 98 to 2 on what I thought was a good bill. Our conferees worked very hard. I thank Senators KENNEDY, COATS, HARKIN, CRAIG, MIKULSKI, FRIST, and DEWINE for their successful efforts in this area as well.

This is a critically important piece of legislation that will expedite the process of getting needed medicines and devices to patients, without compromising safety or effectiveness. That was a desired goal of everybody here.

Let me, if I can, mention two or three provisions in the bill that I think are worthy of special note. One, of course, is a 5-year reauthorization of PDUFA, which is very, very important. I think it demonstrates the success of the PDUFA and how well it worked over 5 years.

Secondly, I also would like to commend our colleagues for accepting the several mechanisms to provide patients and consumers with greater access to information and to life-saving products. For example, this bill gives individuals with life-threatening illnesses greater access to information about ongoing clinical trials and drugs that could be very, very important to them and their families. By the way, Senator SNOWE and Senator FEINSTEIN deserve particular credit. It was originally their idea that we incorporated in the bill, the Better Pharmaceuticals for Children Act. Former Senator Kassebaum of Kansas originally authored that idea, Mr. President. Senator DEWINE and I included it in this bill. I think it has been improved upon in the conference. It is a very important provision that could make a huge difference for young children and their families who want to have reliable products that will become available to them.

So, Mr. President, let me conclude by again thanking all those who have been involved in this process. Passing this legislation can truly be considered one of the very fine achievements of this first session of this Congress. I look forward to its effectiveness with the American consumer.

APPROPRIATIONS TRIGGER

Mr. BUMPERS. Mr. President, on September 23 of this year, my colleague, Senator COCHRAN, chairman of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies, rose on the floor of the Senate to express objection to a provision of the FDA reform bill that would direct the appropriations subcommittee to provide established levels for salaries and expenses of the Food and Drug Administration through fiscal year 2002. If the appropriations bills did not meet those levels, referred to as trigger, the FDA would not be able to collect or use receipts authorized by the Prescription Drug User Fee Act [PDUFA]. The effect of the provision Senator COCHRAN found so troublesome would have been to place a budgetary gun to the head of the appropriations subcommittee under threat of PDUFA fees not being collected and the Nation's drug approval process placed at risk. As ranking member of the appropriations subcommittee, I shared Senator COCHRAN's concerns, but honestly hoped that the problem he highlighted would be corrected before we were faced with final passage of the conference report on FDA reform. While the conference report before us today does provide some relief in fiscal years 2001 and 2002 from the earlier Senate language, I am still disappointed that more progress was not achieved to inject a greater dose of realism into the expectations of the FDA authorization committees of the House and Senate.

I do not mean to detract from the very important work of the FDA nor to minimize the need to push ahead aggressively with drug approvals. I equally appreciate the concerns of the prescription drug industry, which will be responsible for paying the PDUFA fees, that their considerable contributions will be used to supplement, not supplant, the drug approval process. However, an unfortunate charade has been employed to suggest the language now contained in FDA reform is going to protect, in fact guarantee, increases in the level of Federal funds appropriated for FDA drug approvals. I must point out to my colleagues that the language before us does nothing to assure that very goal and I feel compelled to highlight the provision's failing.

FDA reform would require the appropriations bills for fiscal years 1999 through 2002 to provide levels for the FDA salaries and expenses account at levels no lower than the fiscal year 1997 level adjusted by the lesser of inflation based on the consumer price index or changes in growth of national domestic discretionary spending. The FDA salaries and expenses account contains funding for all activities of FDA, including drug approvals, subject to an appropriation other than amounts for buildings and facilities. The FDA reform legislation contains no requirement that FDA allocate any portion of the salaries and expenses account for drug approvals. Therefore, while our appropriations subcommittee may comply with the full letter of FDA reform requirement, that act alone would provide no assurance to the drug industry that the FDA appropriation would be used as they expect. FDA certainly has other pressing budgetary demands such as the need to account for the rental space arrearage for which the General Services Administration is threatening action against FDA, and continued work on tobacco issues. FDA will also need increased attention in the area of food safety which continuing headlines, such as that appearing in the Washington Post this weekend about the more than 700 people made ill by contaminated food in southern Maryland, will no doubt place greater workload on the agency. An arbitrary appropriation trigger will produce no magic bullet aimed solely at the problem of drug approval backlogs.

Mr. President, I might have a little more understanding for the concerns of the drug industry if there was any merit to their claim that the appropriations subcommittee would not hold faith with their requests. Over the past 10 years, our subcommittee has increased new budget authority for FDA salaries and expenses from $456,004,000 to $857,501,000. In fact, I would like the RECORD to reflect the amounts provided in that account on a year-to-year basis since fiscal year 1988 to the present, and I ask unanimous consent the year and amounts be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Fiscal year 1988—$456,004,000.
Fiscal year 1989—$487,344,000.
Fiscal year 1990—$574,171,000.
Fiscal year 1991—$656,519,000.
Fiscal year 1992—$725,962,000.
Fiscal year 1993—$746,035,000.
Fiscal year 1994—$813,339,000.
Fiscal year 1995—$819,971,000.
Fiscal year 1996—$819,971,000.
Fiscal year 1997—$819,971,000.
Fiscal year 1998—$857,501,000.

Mr. BUMPERS. I have included this history of funding to show how the amount of appropriations for FDA salaries and expenses has increased every single year since fiscal year 1988 except for the period between fiscal year 1995 and fiscal year 1997 when the level was held at a freeze. I also want to note that the 3-year period connecting fiscal year 1995 and fiscal year 1997 was a period in which the 602(b) allocation to our subcommittee fell by 11 percent. I hope my colleagues see in this history a commitment by our subcommittee to recognize the importance of FDA's activities. Further, I hope my colleagues see that even during a time when nearly all other programs under our jurisdiction had to take significant reductions, FDA was held harmless. I believe this history reflects well on the commitment and good faith of our subcommittee.

An obvious result of the provision contained in FDA reform will be continuing further reductions in other programs under the jurisdiction of our subcommittee. Those programs will again have to suffer unless, in the unlikely event, we receive substantial increases in our future 602(b) allocations. There are many, many other programs for which our subcommittee is responsible that are important to people and communities all across the Nation. Our bill provides funding for all activities at the U.S. Department of Agriculture—except the Forest Service—and the Commodity Futures Trading Commission. At USDA alone, there are hundreds of programs essential to rural and urban America that will be harmed, again, if our subcommittee is expected to provide FDA, and FDA only, with inflation increases through fiscal year 2002. USDA programs have already been radically cut by our subcommittee over the past several years while, as noted above, FDA was provided substantial increases or, at least, held constant.

I understand a few other proposals were suggested, and rejected, during consideration of the FDA reform legislation. One proposal was to hold FDA to a freeze, something which we have shown we have done historically. Another proposal would have specifically protected the FDA activities for drug approvals. That approach would have better addressed the concerns I outlined above. I understand this proposal to protect FDA drug approvals was rejected due to objections from nondrug related industries concerned that FDA resources might be transferred from their own specific priority areas to drug approvals. Ironically, that is the same concern I have heard from groups fearful about what the provision in FDA reform will do to USDA and CFTC programs.

Mr. President, at times I feel there is an outright assault on the appropriations process. Too many times in recent years we have seen requirements imposed on the Appropriations Committee by other legislative and procedural vehicles that continuously impairs our ability to respond to agency needs and responsibilities to our states and the American people. Based on administration projections, the trigger mechanism contained in FDA reform would force the appropriations subcommittee to increase the FDA salaries and expense account from the current $857 to $876 million in fiscal year 2002. According to the President's 1998 budget, the projected request for FDA salaries and expenses for fiscal year 2002 is only $691 million. This is a difference of nearly $200 million, an

amount worthy of deliberate consideration by the appropriations subcommittee. Additionally, the FDA reform provision does not account for the possibility of a tobacco settlement that might replace current appropriations expenditures, consolidation of food safety functions in some agency other than FDA, or other potential changes that would affect, and possibly reduce, the budgetary requirements of FDA. Even though the provision does attach the trigger to the lesser of the consumer price index or changes in the growth of national domestic discretionary spending, there is no guarantee that any increase in overall domestic discretionary totals will be reflected in the 602(b) allocation for our subcommittee.

For the coming year, I can assure my colleagues that I will work with Senator COCHRAN and others to assess the requests of all agencies and departments that will come before our subcommittee. I strongly believe that we have been fair in our setting of priorities and that we will continue to consider the merits of all requests in order to balance the fiscal demands and resources in a manner consistent with our abilities, good judgment, and the recommendations of all Senators.

Ms. MOSELEY-BRAUN. Mr. President, I support S. 830, the conference report for the Food and Drug Administration Modernization and Accountability Act of 1997, and commend the conferees for quickly reaching agreement on compromises that will ultimately improve the FDA and improve the public's access to cutting edge medical technology.

I am also pleased that we are going to pass this important legislation before adjourning for the year. The American people will be much better off as a result of our actions here today. S. 830 is a perfect example of Congress enacting public policy that Americans both want and need.

There is no disagreement as to the caliber of the Food and Drug Administration. FDA is one of the finest regulatory agencies in the Nation and the world. However, the length of time and amount of paperwork required for FDA approval of new products may still be excessive. For many companies, particularly small and startup businesses, the FDA application process is a formidable time consuming obstacle. These barriers exist despite the recent agency improvements to their review process. In some cases, the length and complexity of the process can force companies to launch their products abroad rather than here in America. This is a troubling prospect, particularly given the increasingly competitiveness of global markets.

The FDA, like all other entities, must evolve and adapt to the changing global landscape. Traditional methods of product review are no longer efficient. Industrialized and emerging nations now participate in multilateral trade agreements aimed to reduce trade barriers. While the U.S. continues as the world's premiere economy, our market dominance is dwindling. A recent Washington Post article indicated that our Nation was far more dominant economically following World War II, when the U.S. economy accounted for more than 25 percent of the world's output, than it is today. Evolving global markets hold untapped potential for product manufacturers. The ability to lucratively launch products abroad will bring pressure on the FDA to harmonize its regulatory policies with other international safety and performance standards. The traditional policies that have made the U.S. the ''gold standard'' in public health protection threaten to undermine our competitiveness. In order to maintain its status as the gold standard, the FDA must implement polices that encourage the launching of new products in this country, as opposed to Europe, and ensures that the United States maintains its technical and scientific leadership in health disciplines.

Mr. President, S. 830 strikes a delicate balance between protecting the public health, fostering global trade under multilateral agreements, ensuring swift access to new health technology for Americans, and strengthening the U.S. technical and scientific leadership.

The conference agreement reauthorizes the Prescription Drug User Fee Act (PDUFA) for an additional 5 years. PDUFA has been one of the most successful pieces of governmental reform legislation. During the 5 years since we first passed PDUFA, the average approval time for pharmaceutical products has dropped over 40 percent. The pharmaceutical and biologics industries overwhelming support reauthorization of PDUFA because they have seen tangible results from their fee payments. The American public also supports reauthorization of PDUFA because they have received access to innovative treatments in a more timely manner.

S. 830 also makes considerable progress in expediting patients' access to important new therapies and potentially life saving experimental treatments. I have long held that access to alternative medical treatments is an essential part or health care freedom of choice. Under the conference agreement, patients with fatal illnesses will no longer be denied access to potentially life-saving treatments. I am sure that each of my colleagues can recount tales of constituents who have encountered considerable bureaucratic red-tape in their efforts to access a non-FDA approved but potentially life-saving treatment. Although I have great respect for the role that the agency and its employees play in protecting consumers from unsafe and ineffective products, there is a problem when informed Americans cannot get access to desired therapies. S. 830 makes some much needed reforms to enhance that access.

Mr. President, the conference agreement includes reasonable compromises on provisions concerning medical device labeling, dissemination of information concerning drug off-label use, and regulation of device manufacturing. Ensuring that unapproved medical devices not get onto the market that clearly have a different use than the labeling indicates is a vitally important task. This issue alone was responsible for delaying approval of the Senate version of the FDA Modernization Act. I am pleased that the conferees reached an agreement to give FDA the necessary regulatory authority but not subject manufacturers to the whims of various application reviewers. FDA will be given the necessary authority to prevent fraudulent labeling as a means of achieving product approval.

Similarly, S. 830 strikes an appropriate balance between protecting the public interests and allowing manufacturers to share important off-label use information with providers. It would have been a grave mistake to either prevent the distribution of off-label use information or not allow the FDA to play a vital role in ensuring the adequacy of information being distributed by manufacturers. I know that a lot of work went into the compromise reached regarding off-label usage information and the agreement greatly benefits the American public.

Mr. President, I would also like to congratulate patients groups for their steadfast pursuit of this reform. During this year, I have met with countless numbers of my constituents who will immediately have better access to medical treatment as a result of this conference agreement. Each time we met, their message was loud and clear—pass FDA reform now. This is a resounding message that I cannot ignore.

S. 830 builds on the reforms that the FDA has already put into place over the past 5 years. The agency has taken a number of steps to streamline administrative functions and work better with industry and consumers to facilitate the availability of cutting edge medical technology. The success that FDA has achieved in reducing the time to review new drugs and get potentially life-saving therapies on the market is laudable. However, more improvements are needed and S. 830 moves another step in the right direction.

My support for S. 830 is not a complete endorsement of the bill. There are a number of important provisions absent from this legislation. I am particularly concerned that the bill does not adequately address food safety, which will certainly emerge as a major public health issue. Most of the recent criticism of the FDA has focused on the biologics and medical technology areas. Regulation of imported food products will probably be the pressing issue of the next millennium. As more imported agricultural products find there way to American tables, there

will be more pressure upon FDA to act to prevent tainted products from getting to the market. The recent problems with tainted meat and poultry highlight this need for greater focus on food safety. Hopefully, Congress can revisit the shortcomings in food safety standards next year.

Nonetheless, S. 830 is a good start down the road of FDA reform. This conference agreement is better than the bill passed by either the House or Senate and considerable better than the bill developed last year. I am happy to have a conference agreement that I can support and that I truly believe moves the country in the right direction. S. 830 is good for patients, good for the industry, and good for the Nation's global competitiveness. I hope that my colleagues will join me in supporting this important legislation.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes 48 seconds.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, I just want to review once again, very briefly, the principal provisions in the legislation which I think are enormously constructive and positive.

First of all, building on the PDUFA record, this provision that we have enacted expands the existing program by setting additional performance targets. It puts special emphasis on expanding early cooperation and FDA and the industry, which will reduce the development time, so that the drug development process, not just the regulatory review process, can be expedited. That is very important.

There are many other positive achievements in the legislation. I am particularly gratified, as I mentioned earlier, with the broader use of the fast-track approval. The streamlined accessibility procedure now available primarily to patients with cancer or AIDS will also be available for drug treatments for patients with any other life-threatening diseases. This bill also provides for expanded access to drugs still under investigation for patience who have no other alternatives. The compromise combines protections for patients with expanded access to new investigational therapies, without exposing patients to unreasonable risks.

The bill includes a new program to provide access for patients to information about clinical trials for serious or life-threatening diseases.

It provides incentives for research on pediatric applications of approved drugs and for development of new antibiotic to deal with emerging, drug-resistant strains of diseases.

It requires companies to give patients advance notification of discontinuance of important products. And in that connection, I am disappointed that we were not able to address the issue of assuring that asthma patients and others will not be put at risk by any abrupt discontinuance of inhalers containing CFC's. I have been informed by FDA that no notice of proposed rulemaking will be issued before this summer, which will give Congress plenty of time to return to this question, if necessary.

The bill includes many measures that will reduce unnecessary regulatory burdens and appropriately clarify its authority.

These provisions, as well as others, are extremely constructive and will be enormously helpful to the American consumer.

Mr. President, I would like to mention some of the staff who have been a crucial part of this whole process. Those members of our staff on the Labor Committee: Nick Littlefield, David Nexon, Diane Robertson, Debbie Kochevar, Pearl O'Rourke, Jim Manley, Leslie Kux, and Carrie Coberly.

Bonnie Hogue with Senator REED, Sabrina Corlette and Peter Reinecke with Senator HARKIN, Jeanne Ireland with Senator DODD, Deborah Walker with Senator BINGAMAN, Anne Grady with Senator MURRAY, Linda DeGoutis with Senator WELLSTONE, Lynne Lawrence with Senator MIKULSKI, and Anne Marie Murphy with Senator DURBIN.

With the Republicans are the following staff:

Jay Hawkins, Sean Donohue, and Mark Powden, with Senator JEFFORDS; Vince Ventimiglia with Senator COATS; Kimberly Spaulding with Senator GREGG; Sue Ramthun with Senator FRIST; and Saira Sultan with Senator DEWINE.

Also, the House staff were instrumental in the success of this conference:

Kay Holcombe, as Senator HATCH has indicated, worked with us when she worked with Senator HATCH on the committee years ago and was very constructive during this process. Howard Cohen, Rodger Currie and Eric Berger also with the Commerce Committee, and Paul Kim on Congressman WAXMAN's staff.

And I thank the FDA staff: Bill Schultz, Peggy Dotzel, and Diane Thompson.

I thank them all very much for all of their help and their involvement.

PRIVILEGE OF THE FLOOR

Finally, I ask unanimous consent that Tom Perez, a Justice Department detainee on the Judiciary Committee, be given floor privileges for the remainder of the session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute forty-five seconds.

Mr. KENNEDY. Mr. President, we again thank our colleagues and friends and look forward to the passage of this legislation.

If there are no other comments, I would be prepared to yield the remainder of our time.

Mr. JEFFORDS. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I would like to take a moment to thank the staff who have worked to make this bill possible. In the office of Senate Legislative Counsel, Robin Bates, Elizabeth Aldridge, and Bill Baird worked tirelessly to produce countless bill drafts and amendments. I would also like to commend House Legislative Counsels David Meade and Pete Goodloe for their work on the conference report.

The staff at CRS, especially Donna Vogt, and at GAO, including Bernice Steinhardt deserve thanks for their willingness to provide essential information and documents on extremely short notice.

The staff to the members of the committee contributed greatly to the success of this bill. Vince Ventimiglia with Senator COATS' staff worked closely with mine in a true partnership on all aspects of S. 830.

In addition, Kimberly Spaulding with Senator GREGG, Sue Ramthun with Senator FRIST, Saira Sultan with Senator DEWINE, and Kate Lambrew-Hull with Senator HUTCHINSON all played important roles in fashioning compromises on key provisions of this conference report, as did Dave Larson and Barry Daylin.

Similarly, three staffers for members of the minority on the committee played pivotal roles throughout the process—from the premarkup stage through the development of this conference report. Their assistance was critical to making this bill a bipartisan success.

Lynne Lawrence with Senator MIKULSKI deserves special mention in recognition of her hard work both in the last Congress and in this one on FDA reform. Following passage of this conference report, Lynne will be leaving Capitol Hill. I am extremely pleased that she will be leaving on a high note, and we all wish her the best with future pursuits. Jeanne Ireland with Senator DODD and Linda Degutis, a fellow with Senator WELLSTONE also provided invaluable assistance throughout the process.

Finally, I thank, of course, the Labor and Human Resources Committee majority and minority staffs. On the minority staff, I would like to thank Nick Littlefield and David Nexon and two minority fellows Diane Robertson and Debbie Kochever.

On my own staff, I would like to thank the majority staff director Mark Powden, Jay Hawkins, and majority fellow Sean Donohue. All have devoted substantial portions of their time over the past 10 months to this effort.

Jay Hawkins, in particular, has been key to making this conference report a reality. His tireless efforts, his unfailing good humor, and his patience have allowed this process to maintain steady forward progress to a highly successful outcome.

The round-the-clock work, particularly over the past few days, of all the staff involved in the conference is greatly appreciated.

Mr. President, I could not be happier with this moment and at this time will happily leave the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. TORRICELLI. Mr. President, will the Senator from Iowa yield?

Mr. HARKIN. I yield without losing my right to the floor for a unanimous-consent request.

Mr. TORRICELLI. Mr. President, I ask unanimous-consent that at the conclusion of the remarks of the Senator from Iowa, I be able to address the Senate for 20 minutes.

The PRESIDING OFFICER. The Senator should be aware that under a previous order the Senator from Massachusetts is to be recognized after the Senator from Iowa.

Mr. TORRICELLI. Then I will amend my unanimous-consent request that after those Senators are recognized under the unanimous-consent request that I be a able to address the Senate for 20 minutes.

Mr. JEFFORDS. Reserving the right to object, I make a point of order that a quorum is not present.

Mr. HARKIN. Mr. President, I have the floor, I believe, and I yielded only to the Senator for the purpose of a question.

The PRESIDING OFFICER. The Senator from Iowa is recognized, and he has the floor.

The unanimous-consent request from the Senator from New Jersey is on the floor. Without objection, it is so ordered.

Mr. JEFFORDS. I object. I make a point of order that a quorum is not present.

Mr. HARKIN. Mr. President, I believe I have the floor. I only yielded for the purpose of a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. Mr. President, I will reclaim the floor in my own right and let these Senators work it out if they want to come back.

The PRESIDING OFFICER. The Senator from Iowa has the floor and is recognized for 20 minutes. He may proceed.

Mr. HARKIN. Thank you, Mr. President.

FAST-TRACK LEGISLATION

Mr. HARKIN. I want to speak a little about the fast-track bill that is before us and which is scheduled to be voted on in the House tonight.

I doing so, I reread the President's speech on September 10 that he gave on fast track. He gave it at the White House, I believe in the East Room.

I found some interesting remarks in the President's speech. He talked about change. He said, ''As we have done throughout our history, we have taken our Nation and led the world to the edge of a new era and a new economy.''

He is absolutely right.

He talked about the economy, and how we are the largest producer of automobiles, agricultural exports, semiconductors, steel, and other items.

Then, closer to the end of the speech, the President said, ''As we continue to expand our economy here at home by expanding our leadership in the global economy, I believe that we have an obligation to support and encourage core labor standards and environmental protections abroad.''

He further said in his speech—this is the President's speech on September 10—''Our goal must be to persuade other countries to build on the prosperity that comes with trade and lift their standards up. As we move forward, we must press countries to provide the labor standards to which all workers are entitled,'' et cetera.

The President said in his speech that we are part of a new world economy. I would say, yes, Mr. President, we are also part of a new world community—a new world community the likes of which we have never seen because of the rapid dissemination of information, the globalization of communication, the instantaneous transmission of images and voice, transmittal of information around the globe. People living in the remotest villages of Africa, China, or Asia now know what is happening in other parts of the world. No longer is it kept from them. Increasingly the people on this planet are going to demand their human rights, their fundamental basic human rights, their individual freedoms. That is what Tiananmen Square was all about.

Yes, Mr. President, you were right. You were right, Mr. President, to say to President Jiang of China that China was on the wrong side of history at Tiananmen Square. You were right, Mr. President. But, Mr. President, to the extent that we have a trade bill before us that limits your authority to negotiate under fast track regarding exploitative child labor, that weakens the provisions dealing with child labor, then you, Mr. President, and this country are on the wrong side of history.

Those may sound like strong words, but as I have read the President's speech, and as I read the fast-track bill before us, one can only come to one conclusion. This legislation takes us in the wrong direction. It severely limits the ability of the President and our trade negotiators to address the issue of exploitative child labor in trade negotiations. That is right. This bill limits the President's authority. The 1988 bill didn't. I will explain this.

In this bill, child labor is included in a category of issues under the heading ''Regulatory Negotiations.'' Under this heading in the bill, negotiations under fast track on child labor may only cover—I will read it—''the lowering of, or derogation from, existing * * * standards.''

That is all. The language does not allow negotiations aimed at getting a country to agree to raise its child labor standards, no matter how weak or nonexistent they may be.

Furthermore, the negotiations may only address cases where the other country's lowering of, or derogation from, its child labor standards is—and I will read it directly from the bill—''for the purpose of attracting investment or inhibiting United States exports.''

I want to make sure my colleagues understand that.

First of all, the President may only negotiate regarding the lowering of, or derogation from, existing labor standards. He can't negotiate on strengthening them. And he may only negotiate regarding the situation where the lowering of, or derogation from, standards is done for the purpose of attracting investment or inhibiting U.S. exports.

What about the case where a country lowers or fails to enforce its child labor standards for the purpose of producing goods at lower cost so it can ship them to the United States? That situation is not mentioned in this language, so the President does not have authority to negotiate on that basis according to the terms of the bill. Allowing the use of exploitative child labor to hold the price of goods down is unfair competition, plain and simple, but a country could do that.

Exploitative child labor in foreign countries unfairly puts competing firms and workers at a disadvantage in the United States and in other countries that do not allow it. Yet, the language in this bill does not indicate that President would have the authority to address that kind of unfair competition against U.S. companies and workers in negotiations and agreements under fast track. As long as the other country is not lowering or derogating from its standards for the purpose of attracting investment or inhibiting U.S. exports, our negotiators cannot negotiate to end this unfair competition.

The bottom line is that this bill limits the President's authority to seek agreements that would curtail exploitative child labor.

It is important to clarify this point. I think people will say ''HARKIN, what are you talking about? How could it limit the President's authority?''

Well, let us examine that question.

Under this bill, the President actually has less authority to negotiate regarding child labor, and submit an agreement to Congress under fast-track procedures, than he had in the most recent fast-track legislation, which was contained in the Omnibus Trade and Competitiveness Act of 1988—the last bill laying out fast-track procedures that we voted on and which this Senator voted for.

That is right. Let me be very clear. The bill before us provides less authority to negotiate on child labor than the bill that we passed in 1988. And that bill has done precious little in terms of exploitative child labor.

Now, let me explain specifically. The 1988 fast-track law was set up in the same way as the bill before us. It had a listing of principal trade negotiating objectives. One of those listed objectives pertained to worker rights, and I will quote from the 1988 law:

The principal negotiating objectives of the United States regarding worker rights are (A) to promote respect for worker rights.

As used in the 1988 fast-track law, the term ''worker rights'' certainly includes the right of children not to be subjected to exploitative labor. That is the plain meaning of the language, and I have confirmed that interpretation with the Congressional Research Service.

So the 1988 fast-track bill clearly included a negotiating objective encompassing child labor and affirming the President's broad authority to negotiate regarding child labor.

Well, now someone, I am sure, will point out that the bill before us specifically mentions child labor. Yes, it does. The 1988 bill did not, although as I noted child labor was encompassed in the 1988 bill under the heading of worker rights. But the 1988 bill and this bill are vastly different from one another in the way they are structured and how they deal with child labor. The 1988 bill's negotiating objectives were written in broad terms to urge the President to pursue worker rights issues which included child labor. The 1988 language was not really written as a limitation on the President's authority, but rather as an affirmation of the President's expansive authority to negotiate on these issues and an encouragement to seek agreements on these issues with other countries.

By contrast, this bill before us is narrowly drawn to circumscribe and limit the President's negotiating authority regarding exploitative child labor. Unlike the 1988 bill, this bill before us is not written to set objectives and encourage the President to reach them, and to do even better if possible, in reaching sound agreements on exploitative child labor.

Understand this. This bill before us says he may negotiate under fast track only agreements designed to prevent other countries from lowering or derogating from existing child labor standards—no matter how low they may be. He may not negotiate under fast track an agreement in which a country would commit to raise its child labor standards if they are too low or if they do not exist.

And further, a fast-track agreement may prevent a country from lowering or derogating from its child labor standards only in cases where it does so for the limited purposes of attracting investment or inhibiting U.S. exports. This bill is very limited on the President's authority to negotiate regarding exploitative child labor. Again, he can only negotiate on agreements designed to prevent other countries from lowering their standards, and then he can only do that if that country is lowering its standards for the limited purpose of attracting U.S. investment or limiting U.S. exports.

Mr. President, you wonder who wrote this. Now, I have in good faith talked a lot to the people around the President about exploitative child labor. I have talked to his Trade Representative in good faith about this issue. And you know, initially they said we are going to put child labor in there. Well, they did, but what they didn't say is they put it in in a way that actually limits the President's authority from what he had in the 1988 bill.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. HARKIN. In my remaining time, Mr. President, I would like to explain why my amendment that I will be offering on fast track deals specifically with exploitative child labor in a way that will enhance and strengthen the President's position.

Now, there are other labor provisions that ought to be put into this bill, and there has been a lot of debate and disagreement on ways to address labor, environmental, and health and safety issues in this legislation. I understand the reasons for these disagreements. But, honestly, I do not see how there can be any disagreement on the need to address exploitative child labor and to ensure that the President and our trade negotiators do not have their hands tied when it comes to negotiating and concluding agreements on this issue.

This is the benchmark that I believe should be applied to exploitative child labor in examining the bill before us. It is simply this. The President's authority and our directions to him to negotiate on exploitative child labor should be no less than that for the other important issues contained in this bill.

Using that benchmark, I would invite my colleagues to examine the fast-track bill that we have before us. This bill has numerous principal negotiating objectives dealing with a wide range of issues—trade in goods, trade in services, foreign investment, intellectual property, agriculture, unfair trade practices, a host of them.

Again, with respect to all of these other issues, the bill is drafted to articulate objectives, to give guidance and direction to the President, to ensure that the President has sufficiently broad and expansive negotiating authority and to encourages him to use it—a far cry from the limiting way child labor is addressed in this bill.

Look at the language dealing with intellectual property. The bill sets ambitious goals here and confirms the President's broad authority to negotiate and submit any resulting agreement under fast track. In fact, one of the principal negotiating objectives on intellectual property is ''the enactment and effective enforcement by foreign countries of laws that recognize and adequately protect intellectual property.''

Now, when it comes to intellectual property, the President is not limited to negotiating under fast track only to prevent other countries from lowering or derogating from existing standards. Nor is negotiation limited only to those cases where a country is seeking to attract investment or inhibit U.S. exports.

To protect intellectual property, the President is to seek agreements in which other countries commit to adopt and enforce higher standards if they need to. Not so for child labor. And his negotiating authority to protect intellectual property covers the broad range of ways in which intellectual property rights may be violated. Again, not so for child labor.

My amendment regarding exploitative child labor simply tracks the language in the bill on intellectual property. It is basically the same language, with conforming modifications. My amendment ensures that the President has the same authority to negotiate on exploitative child labor as he has on protecting intellectual property. It puts into the bill that one of our trade negotiating objectives includes the enactment and effective enforcement by other countries of laws against exploitative child labor. It adds exploitative child labor to the bill as a negotiating objective.

My amendment does not tie the President's hands. It does not say there has to be a predetermined outcome on child labor in trade negotiations. It just says that in dealing with exploitative child labor, the President has the authority, the same authority, as he has to protect against the pirating of a song, a computer chip or a compact disc. We ought to ensure this bill gives the President the same authority to seek protection against exploitative child labor as a means of unfair competition as he has to seek protection against the misappropriation of intellectual property as a means of unfair competition.

My amendment says that exploitative child labor will be on the table during negotiations. It will be one of our principal trade negotiating objectives. It will have the same status and stature as intellectual property.

Mr. President, again I am not talking about 18-year old kids working, or 17-year-old kids, no. This is what I am talking about right here. This picture is of a young girl working in a field in Mexico after NAFTA. We have more children working in Mexico today after NAFTA than we did before. And I do not mean just teenagers. I mean kids 8, 9, 10 years of age, too. And yet we had some side agreements covering child labor on NAFTA, but they are not being enforced.

We have over 200 million working kids in the world today, more and more being put into factories and plants and, yes, agriculture. My Iowa farmers can compete against anyone in the world, but they cannot compete against that girl because that girl is a slave laborer. That is slave labor. This girl has no choice. She has no options. She cannot go to school. She cannot go to school because she is out in the fields all day, the same as a kid working in a glass factory, a shoe factory, a garment factory, or a rug factory. And these are often kids that are 8, 9, 10 years old.

Now, I believe that our trade negotiators and the people down at the White House have the best of intentions. I am sure there is no one there who likes exploitative child labor. For the life of me, I cannot understand why they sent a bill to us such as they did and why they will go along with such a weak bill relating to exploitative child labor. If they would only compare this bill with the one in 1988, they would understand that the bill before us curtails, circumscribes and limits the President's authority on exploitative child labor relative to the 1988 bill.

I have been talking to people down at the White House about putting exploitative child labor in this bill at the same level as intellectual property, but for some reason they just cannot quite seem to get on board.

There was a time not too long ago when intellectual property rights were regarded as extraneous to trade, just as some argue child labor is today. I remember when I was in the Navy back in the 1960s. People would go to Taiwan and they would get records for perhaps 10 cents each—books and encyclopedias for just pennies—because Taiwan was pirating the records; they were pirating the books and printing them. I remember people I knew in the Navy would go to Taiwan and load up with books and records, but today there are international rules in trade agreements to protect intellectual property. So there was a time when intellectual property was considered extraneous to trade agreements. Not so today. Exploitative child labor should not be extraneous today.

Yes, we are in a new era. We are in a new world economy, but we are also in a new world community. And just as we have taken the lead in the world economy, as we have taken the lead in breaking down trade barriers—and I believe we should—we must take the lead in stopping this, the last vestige of slavery in the world today, exploitative child labor.

We can debate and discuss labor issues, environmental issues, and there are all kinds of different perspectives and arguments about them. There should be no argument on exploitative child labor. There should be no disagreement on this. There are distinct lines. Children should not be working like this. Our trade negotiators, when they sit down at that table, ought to be negotiating on exploitative child labor. It ought to be a trade negotiating objective. It ought to have the same stature, the same force, the same effect as intellectual property because not only is this a moral imperative of ours; it is imperative to stop it as unfair competition because that child laborer, that child slave, is producing goods that are sent to this country, that compete against our products. My farmers cannot compete against that. Our workers cannnot compete against that. They should not have to compete against it. This bill is fatally flawed and the administration needs to send get behind the amendment that I will be offering. We need to adopt that amendment to make sure that stopping exploitative child labor has the same force and effect, and the same level of authority, in trade negotiations as stopping the pirating of intellectual property.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I believe my order is to speak in morning business.

The PRESIDING OFFICER. That is correct. The Senator, under the previous order, has 20 minutes.

WE MUST BE FIRM WITH SADDAM HUSSEIN

Mr. KERRY. Mr. President, I will speak tomorrow on the subject of fast track. I wish to talk this evening about another subject that has not received as much conversation on the floor of the Senate as it merits—because, while we have been focused on fast track and on a lot of loose ends which must be tied up before this first session of the 105th Congress can be brought to a close, a very troubling situation has developed in the Middle East that has ominous implications, not just for our national security but literally for the security of all civilized and law-abiding areas of the world.

Even after the overwhelming defeat that the coalition forces visited upon Iraq in and near Kuwait in the Desert Storm conflict, Iraqi dictator Saddam Hussein's truculence has continued unabated. In the final days of that conflict, a fateful decision was made not to utterly vanquish the Iraqi Government and armed forces, on the grounds that to do so would leave a risky vacuum, as some then referred to it, in the Middle East which Iran or Syria or other destabilizing elements might move to fill.

But instead of reforming his behavior after he was handed an historic defeat, Saddam Hussein has continued to push international patience to the very edge. The United Nations, even with many member nations which strongly favor commerce over conflict, has established and maintained sanctions designed to isolate Iraq, keep it too weak to threaten other nations, and push Saddam Hussein to abide by accepted norms of national behavior. These sanctions have cost Iraq over $100 billion and have significantly restrained his economy. They unavoidably also have exacted a very high price from the Iraqi people, but this has not appeared to bother Saddam Hussein in the least. Nor have the sanctions succeeded in obtaining acceptable behavior from Saddam.

Now, during the past 2 weeks, Saddam again has raised his obstinately uncooperative profile. We all know of his announcement that he will no longer permit United States citizens to participate in the U.N. inspection team searching Iraq for violations of the U.N. requirement that Iraq not build or store weapons of mass destruction. And he has made good on his announcement. The UNSCOM inspection team, that is, the United Nations Special Commission team, has been refused access to its inspection targets throughout the week and once again today because it has Americans as team members. While it is not certain, it is not unreasonable to assume that Saddam's action may have been precipitated by the fear that the U.N. inspectors were getting uncomfortably close to discovering some caches of reprehensible weapons of mass destruction, or facilities to manufacture them, that many have long feared he is doing everything in his power to build, hide, and hoard.

Another reason may be that Saddam Hussein, who unquestionably has demonstrated a kind of perverse personal resiliency, may be looking at the international landscape and concluding that, just perhaps, support may be waning for the United States's determination to keep him on a short leash via multilateral sanctions and weapons inspections. This latest action may, indeed, be his warped idea of an acid test of that conclusion.

We should all be encouraged by the reactions of many of our allies, who are evincing the same objections to Iraq's course that are prevalent here in the United States. There is an inescapable reality that, after all of the effort of recent years, Saddam Hussein remains the international outlaw he was when he invaded Kuwait. For most of a decade he has set himself outside international law, and he has sought to avoid the efforts of the international community to insist that his nation comport itself with reasonable standards of behavior and, specifically, not equip itself with implements of mass destruction which it has shown the willingness to use in previous conflicts.

Plainly and simply, Saddam Hussein cannot be permitted to get away with his antics, or with this latest excuse for avoidance of international responsibility.

This is especially true when only days earlier, after months of negotiations, the administration extracted some very serious commitments from China, during President Jiang Zemin's state visit to Washington, to halt several types of proliferation activities. It

is unthinkable that we and our allies would stand by and permit a renegade such as Saddam Hussein, who has demonstrated a willingness to engage in warfare and ignore the sovereignty of neighboring nations, to engage in activities that we insist be halted by China, Russia, and other nations.

Let me say that I agree with the determination by the administration, at the outset of this development, to take a measured and multilateral approach to this latest provocation. It is of vital importance to let the United Nations first respond to Saddam's actions. After all, those actions are first and foremost an affront to the United Nations and all its membership which has, in a too-rare example of unity in the face of belligerent threats from a rogue State, managed to maintain its determination to keep Iraq isolated via a regime of sanctions and inspections.

I think we should commend the resolve of the Chief U.N. Inspector, UNSCOM head Richard Butler, who has refused to bend or budge in the face of Saddam's intransigence. Again and again he has assembled the inspection team, including the U.S. citizens who are part of it, and presented it to do its work, despite being refused access by Iraq.

He rejected taking the easy way out by asking the U.S. participants simply to step aside until the problem is resolved so that the inspections could go forward. He has painstakingly documented what is occurring, and has filed regular reports to the Security Council. He clearly recognizes this situation to be the matter of vital principle that we believe it to be.

The Security Council correctly wants to resolve this matter if it is possible to do so without plunging into armed conflict, be it great or small. So it sent a negotiating team to Baghdad to try to resolve the dispute and secure appropriate access for UNSCOM's inspection team. To remove a point of possible contention as the negotiators sought to accomplish their mission, the United Nations asked that the U.S. temporarily suspend reconnaissance flights over Iraq that are conducted with our U–2 aircraft under U.N. auspices, and we complied. At that time, in my judgment this was the appropriate and responsible course.

But now we know that Saddam Hussein has chosen to blow off the negotiating team entirely. It has returned emptyhanded to report to the Security Council tomorrow. That is why I have come to the floor this evening to speak about this matter, to express what I think is the feeling of many Senators and other Americans as the Security Council convenes tomorrow.

We must recognize that there is no indication that Saddam Hussein has any intention of relenting. So we have an obligation of enormous consequence, an obligation to guarantee that Saddam Hussein cannot ignore the United Nations. He cannot be permitted to go unobserved and unimpeded toward his horrific objective of amassing a stockpile of weapons of mass destruction. This is not a matter about which there should be any debate whatsoever in the Security Council, or, certainly, in this Nation. If he remains obdurate, I believe that the United Nations must take, and should authorize immediately, whatever steps are necessary to force him to relent—and that the United States should support and participate in those steps.

The suspended reconnaissance flights should be resumed beginning tomorrow, and it is my understanding they will be. Should Saddam be so foolish as to take any action intended to endanger those aircraft or interrupt their mission, then we should, and I am confident we will, be prepared to take the necessary actions to either eliminate that threat before it can be realized, or take actions of retribution.

When it meets tomorrow to receive the negotiators' report and to determine its future course of action, it is vital that the Security Council treat this situation as seriously as it warrants.

In my judgment, the Security Council should authorize a strong U.N. military response that will materially damage, if not totally destroy, as much as possible of the suspected infrastructure for developing and manufacturing weapons of mass destruction, as well as key military command and control nodes. Saddam Hussein should pay a grave price, in a currency that he understands and values, for his unacceptable behavior.

This should not be a strike consisting only of a handful of cruise missiles hitting isolated targets primarily of presumed symbolic value. But how long this military action might continue and how it may escalate should Saddam remain intransigent and how extensive would be its reach are for the Security Council and our allies to know and for Saddam Hussein ultimately to find out.

Of course, Mr. President, the greatest care must be taken to reduce collateral damage to the maximum extent possible, despite the fact that Saddam Hussein cynically and cold-heartedly has made that a difficult challenge by ringing most high-value military targets with civilians.

As the Security Council confronts this, I believe it is important for it to keep prominently in mind the main objective we all should have, which is maintaining an effective, thorough, competent inspection process that will locate and unveil any covert prohibited weapons activity underway in Iraq. If an inspection process acceptable to the United States and the rest of the Security Council can be rapidly reinstituted, it might be possible to vitiate military action.

Should the resolve of our allies wane to pursue this matter until an acceptable inspection process has been reinstituted—which I hope will not occur and which I am pleased to say at this moment does not seem to have even begun—the United States must not lose its resolve to take action. But I think there is strong reason to believe that the multilateral resolve will persist.

To date, there have been nine material breaches by Iraq of U.N. requirements. The United Nations has directed some form of responsive action in five of those nine cases, and I believe it will do so in this case.

The job of the administration in the next 24 hours and in the days to follow is to effectively present the case that this is not just an insidious challenge to U.N. authority. It is a threat to peace and to long-term stability in the tinder-dry atmosphere of the Middle East, and it is an unaffordable affront to international norms of decent and acceptable national behavior.

We must not presume that these conclusions automatically will be accepted by every one of our allies, some of which have different interests both in the region and elsewhere, or will be of the same degree of concern to them that they are to the U.S. But it is my belief that we have the ability to persuade them of how serious this is and that the U.N. must not be diverted or bullied.

The reality, Mr. President, is that Saddam Hussein has intentionally or inadvertently set up a test which the entire world will be watching, and if he gets away with this arrogant ploy, he will have terminated a most important multilateral effort to defuse a legitimate threat to global security—to defuse it by tying the hands of a rogue who thinks nothing of ordering widespread, indiscriminate death and destruction in pursuit of power.

If he succeeds, he also will have overwhelmed the willingness of the world's leading nations to enforce a principle on which all agree: that a nation should not be permitted to grossly violate even rudimentary standards of national behavior in ways that threaten the sovereignty and well-being of other nations and their people.

I believe that we should aspire to higher standards of international behavior than Saddam Hussein has offered us, and the enforcement action of the United Nations pursues such a higher standard.

We know from our largely unsuccessful attempts to enlist the cooperation of other nations, especially industrialized trading nations, in efforts to impose and enforce somewhat more ambitious standards on nations such as Iran, China, Burma, and Syria that the willingness of most other nations—including a number who are joined in the sanctions to isolate Iraq—is neither wide nor deep to join in imposing sanctions on a sovereign nation to spur it to ''clean up its act'' and comport its actions with accepted international norms. It would be a monumental tragedy to see such willingness evaporate in one place where so far it has survived and arguably succeeded to date,

especially at a time when it is being subjected to such a critical test as that which Iraq presents.

In a more practical vein, Mr. President, I submit that the old adage ''pay now or pay later'' applies perfectly in this situation. If Saddam Hussein is permitted to go about his effort to build weapons of mass destruction and to avoid the accountability of the United Nations, we will surely reap a confrontation of greater consequence in the future. The Security Council and the United States obviously have to think seriously and soberly about the plausible scenarios that could play out if he were permitted to continue his weapons development work after shutting out U.N. inspectors.

There can be little or no question that Saddam has no compunctions about using the most reprehensible weapons—on civilians as readily as on military forces. He has used poison gas against Iranian troops and civilians in the Iran-Iraq border conflict. He has launched Scud missiles against Israel and against coalition troops based in Saudi Arabia during the gulf war.

It is not possible to overstate the ominous implications for the Middle East if Saddam were to develop and successfully militarize and deploy potent biological weapons. We can all imagine the consequences. Extremely small quantities of several known biological weapons have the capability to exterminate the entire population of cities the size of Tel Aviv or Jerusalem. These could be delivered by ballistic missile, but they also could be delivered by much more pedestrian means; aerosol applicators on commercial trucks easily could suffice. If Saddam were to develop and then deploy usable atomic weapons, the same holds true.

Were he to do either, much less both, the entire balance of power in the Middle East changes fundamentally, raising geometrically the already sky-high risk of conflagration in the region. His ability to bluff and bully would soar. The willingness of those nations which participated in the gulf war coalition to confront him again if he takes a course of expansionism or adventurism may be greatly diminished if they believe that their own citizens would be threatened directly by such weapons of mass destruction.

The posture of Saudi Arabia, in particular, could be dramatically altered in such a situation. Saudi Arabia, of course, was absolutely indispensable as a staging and basing area for Desert Storm which dislodged Saddam's troops from Kuwait, and it remains one of the two or three most important locations of U.S. bases in the Middle East.

Were its willingness to serve in these respects to diminish or vanish because of the ability of Saddam to brandish these weapons, then the ability of the United Nations or remnants of the gulf war coalition, or even the United States acting alone, to confront and halt Iraqi aggression would be gravely damaged.

Were Israel to find itself under constant threat of potent biological or nuclear attack, the current low threshold for armed conflict in the Middle East that easily could escalate into a world-threatening inferno would become even more of a hair trigger.

Indeed, one can easily anticipate that Israel would find even the prospect of such a situation entirely untenable and unacceptable and would take preemptive military action. Such action would, at the very least, totally derail the Middle East peace process which is already at risk. It could draw new geopolitical lines in the sand, with the possibility of Arab nations which have been willing to oppose Saddam's extreme actions either moving into a pan-Arab column supporting him against Israel and its allies or, at least, becoming neutral.

Either course would significantly alter the region's balance of power and make the preservation and advancement of U.S. national security objectives in the region unattainable—and would tremendously increase the risk that our Nation, our young people, ultimately would be sucked into yet another military conflict, this time without the warning time and the staging area that enabled Desert Storm to have such little cost in U.S. and other allied troop casualties.

Finally, we must consider the ultimate nightmare. Surely, if Saddam's efforts are permitted to continue unabated, we will eventually face more aggression by Saddam, quite conceivably including an attack on Israel, or on other nations in the region as he seeks predominance within the Arab community. If he has such weapons, his attack is likely to employ weapons of unspeakable and indiscriminate destructiveness and torturous effects on civilians and military alike. What that would unleash is simply too horrendous to contemplate, but the United States inevitably would be drawn into that conflict.

Mr. President, I could explore other possible ominous consequences of letting Saddam Hussein proceed unchecked. The possible scenarios I have referenced really are only the most obvious possibilities. What is vital is that Americans understand, and that the Security Council understand, that there is no good outcome possible if he is permitted to do anything other than acquiesce to continuation of U.N. inspections.

As the world's only current superpower, we have the enormous responsibility not to exhibit arrogance, not to take any unwitting or unnecessary risks, and not to employ armed force casually. But at the same time it is our responsibility not to shy away from those confrontations that really matter in the long run. And this matters in the long run.

While our actions should be thoughtfully and carefully determined and structured, while we should always seek to use peaceful and diplomatic means to resolve serious problems before resorting to force, and while we should always seek to take significant international actions on a multilateral rather than a unilateral basis whenever that is possible, if in the final analysis we face what we truly believe to be a grave threat to the well-being of our Nation or the entire world and it cannot be removed peacefully, we must have the courage to do what we believe is right and wise.

I believe this is such a situation, Mr. President. It is a time for resolve. Tomorrow we must make that clear to the Security Council and to the world.

I yield back the balance of my time.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I ask unanimous consent to return to morning business and address the Senate for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAST TRACK

Mr. TORRICELLI. Mr. President, this Congress is engaged in a great debate about giving the President of the United States virtually unrestricted authority to engage and negotiate with other nations in what has been termed fast-track authority.

Capital markets and international political leaders are waiting to see whether or not this Congress will grant that authority to the President of the United States.

To some, the debate has already been defined as either one of believing in free trade or returning to protectionism. I believe that that is a disservice to this Congress and indeed to the debate itself because the issue is extraordinarily more complex.

The United States needs no lectures about the advantages or the pursuit of free trade nor, indeed, does this Congress. In Bretton Woods, the Kennedy Round, the Uruguay Round, the United States has both led and constructed the current system both in monetary and trade relations.

This country understands that free, unfettered trade, the opening of international markets, is the very foundation of both our own and international prosperity. This generation's standard of living has been based on the lessons of each of these agreements.

As a result, the United States has become the largest importing nation in the world. Indeed, although the United States has an economy that is smaller than the combined economies of the European community, we import more than twice the industrialized product from the developing world.

This trade has been not without benefit to even those industries which seemingly have suffered the most. Although there have been serious dislocations in key industrial industries, like autos and steel and new products like

semiconductors and computers, the current competitiveness and efficiency of even these industries have benefited by international trade and competition.

Indeed, it is because of this enhanced efficiency in competition that I supported fast-track authority in 1988, supported the Canada-U.S. Free Trade Agreement and most recently the GATT agreement.

I take the Senate floor today because I have reached my own conclusion that when asked to vote in this body, I will not support fast-track authority as currently requested by the President of the United States this year. I do so despite a long history of supporting similar authority and as one who believes strongly in free trade as enhancing American competitiveness and it being essential to America's quality of life, because I believe the United States has reached an important crossroads in our trade strategy.

Like many Americans, I am simply not convinced that the U.S. Government has a strategy to maximize benefits in current trade agreements. I do not fear the competition of foreign trade. I simply fear that our negotiators are not prepared to protect and defend our national interests with a coherent strategy.

I base my conclusion on four principal problems.

First, over 4 decades, by necessity, through the cold war and in times of threats to our national security, it became necessary for the United States on occasion to compromise in our trade strategy in order to engage in the protection of other important national interests.

By necessity, whether it was to secure Philippine military bases or the cooperation of Korean or Turkish or a host of other allies, the United States would set apart our trade objectives in order to secure national security concerns.

Even now while American intellectual property rights are being compromised in China, we are being told that this is necessary for the political engagement of the People's Republic of China.

Mr. President, my first objection to fast-track authority to the President is these agreements on trade must stand for economic purposes of their own weight. The American people and this Congress must be convinced the country is pursuing a coherent trade strategy without compromise for other purposes.

Second, it is critical that this Congress be convinced that our trade negotiators are using the leverage of those seeking access to our market to its maximum advantage. In negotiating NAFTA, the United States afforded Mexico the most important advantage that any nation economically could ever seek. That is, to gain access to the American market for their products. But we did so without using all of the leverage available to the United States. So Mexico, a country that is a principal conduit for narcotics into the United States, a source of massive illegal immigration to the United States, a nation which does not allow access to American products or investment without reservation, was afforded the opportunities of NAFTA without, by necessity, conceding cooperation on all these fronts. So in my mind, Mr. President, the second reason for a reservation in proceeding with fast-track authority is that the United States is not using its principal leverage in negotiating with other nations.

Third, Mr. President, in my mind, is the legitimate concern about the pace of international economic integration. Mr. President, during this debate, both in this body and in the other, no one will be quoted more often than Adam Smith. Indeed, to my mind, there is no man who has been read less and quoted more often than Adam Smith in his ''Wealth of Nations.'' For my third reason in objecting to fast-track authority, I return to his treatise of more than two centuries ago when he said, ''. . . freedom of trade should be restored only by slow gradations, and with a good deal of reserve and circumspection. Were those high duties and prohibitions taken away all at once . . . the disorder which this would occasion might no doubt be very considerable.''

Mr. President, free trade is a national objective, but like other human virtues, it may never be fully realized. It is forever pursued, but it requires so many changes in culture and values and so many complications that it must remain a goal, understanding it may never be realized. Every Member of this institution recognizes that fast-track authority and opening the American market involves a host, indeed hundreds, of different industries that compromise many communities and their economic strength. It is understood and recognized that, like manufacturing, certain high-labor-intensive industries have no long-term future in the American economy.

As Adam Smith warned two centuries ago, that does not mean that with haste or even immediacy they must be subjected to their demise. There are industries in this country that employ thousands, if not millions, of people who live on the economic margins of our society who have no other economic choice. The 50- or 60-year-old textile worker who may have lived in this country for generations, or be new to our land, who may speak English or may not, who may be educated or may have the bare minimum of education, will not in a single generation or with the stroke of a pen be transformed from a textile worker to a computer technician.

American trade policy with a goal of free trade must be realistic and fair to all elements of this society and must take into account the very disorder of which Adam Smith warned only that we be accommodating.

Mr. President, finally, a fourth and final reason that I believe this Senate should withhold fast-track authority on this occasion. It is based on a series of judgments that this Congress reached a long time ago. It has become, I believe, standard in this country, almost without reservation, to believe that it is appropriate, from bans on child labor to a reasonable minimum wage, to the human rights organized labor unions, to just and fair environmental standards. But our country now, in the decision to engage itself in free and open global trade, needs to reach a judgment. How is it we keep these basic commitments without engaging in an extraordinary and even hypocritical contradiction? At this moment in time, the Nation wants both to maintain these high moral standards, some of which have transcended generations, but at the same time to take advantage of the inexpensive products, the economic opportunities of importations where workers have no right to organize, nonexistent or unenforced minimum wage and, in many cases, almost no protections against child labor, and a minimum of environmental standards.

The difference, Mr. President, is whether or not the United States will, in some cases, engage in exploitation, not whether or not the United States will engage in free trade. I believe, therefore, Mr. President, that on this occasion, with a commitment to free trade and an understanding of the need and necessity for the United States to engage in free, fair, and open competition, this Congress should not grant unrestricted authority to the President of the United States to engage in trade negotiations, without reserving for ourselves the right to ensure that there is a trade strategy that encompasses the goal of reaching trade balance, dealing with structural imbalances that, by necessity, are arising from countries that continue to protect their own markets. And we deal with these inherent contradictions of how we maintain both a standard of living for those in our country who cannot quickly adjust to the competition, the contradictions of maintaining environmental labor standards, while allowing access to our market to those who do not.

This will require a trade strategy by the Executive that, to my judgment, has not yet been defined and may not yet exist. I do hope, however, Mr. President, that this is understood for what it is—not a retreat, not protectionism, just forcing this country, at long last, to begin to define a real and lasting trade strategy.

Mr. President, I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2607

Mr. LOTT. After consultation with many, many Senators and especially the Democratic leader, I now ask that

the Senate turn to the D.C. appropriations bill, H.R. 2607, and Senator STEVENS be recognized to offer a substitute amendment and that there be 2 hours of debate to be equally divided in the following fashion: 30 minutes between Senators STEVENS and BYRD, 30 minutes between Senators FAIRCLOTH and BOXER, 30 minutes between Senators GREGG and HOLLINGS, 30 minutes between Senators MCCONNELL and LEAHY.

I further ask that no other amendments or motions be in order, and following the conclusion or yielding back of the time, the amendment be agreed to and the bill be advanced to third reading and passage, and all occur without further action or debate.

I further ask that following the adoption, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees, all without further action or debate.

I ask unanimous consent that in the event that H.R. 2607 is sent to the President without a conference, the Committee on Appropriations, with the concurrence of the chairman and ranking member, be permitted to file in the RECORD within 2 days of final passage and to print as an official document of the Senate a report on the final version of H.R. 2607 as enacted by the Congress.

Finally, I ask unanimous consent that following the disposition of H.R. 2607, the Senate proceed to S. 1502 regarding D.C. scholarships, the bill be read the third time and passed, and the motion to reconsider be laid upon the table, all without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I want to confirm, as most Senators certainly know, there will be no further rollcall votes tonight, and while the Senators have this 2 hours of time, we don't anticipate the full time will be used.

I yield the floor.

Mr. DASCHLE. I want to commend the distinguished chair and ranking member of the Appropriations Committee. Oftentimes we work through these things, and credit isn't allocated as it should be. In this case, this would not have happened were it not for the extraordinary effort on both sides of the aisle, in particular by the chairman and the ranking member. But I thank all Senators for their cooperation and the extraordinary effort they have put forth to get us to this point.

Mr. LOTT. Mr. President, I thank Senator DASCHLE for making those comments. He is certainly right. Senator STEVENS is very persistent, as is Senator BYRD, his worthy ally in this effort.

This has been a difficult agreement to put together, but it is the right thing to do at this hour. That way, we will have this package in the House and they will have a vehicle with these three bills on which they can act, and that will lead into, hopefully, final passage tomorrow. I do commend them for their very fine work.

I yield the floor.

DISTRICT OF COLUMBIA APPROPRIATIONS, MEDICAL LIABILITY REFORM, AND EDUCATION REFORM ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the clerk will report the House bill.

The legislative clerk read as follows:

A bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1621

(Purpose: Making omnibus consolidated appropriations for the fiscal year ending September 30, 1998, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. BYRD, proposes an amendment numbered 1621.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

PRIVILEGE OF THE FLOOR

Mr. GREGG. Mr. President, I ask unanimous consent that Carl Truscott of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that after completion of the pending motion and amendment, and passage, the Senator from Michigan, Senator ABRAHAM, be granted 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. FAIRCLOTH. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. FAIRCLOTH. Mr. President, as the 105th Congress draws to a close, we are finally, at last, about to complete action on the District of Columbia appropriations bill. The amendment before the Senate incorporates the conference report to the Commerce, Justice, State spending bill and the Foreign Operations spending bill, together with an amendment in the nature of a substitute to the District of Columbia appropriations bill.

I would like to speak very briefly to the provisions of the District of Columbia portion of this omnibus package. First of all, the ranking member of the District of Columbia subcommittee, BARBARA BOXER, and I have ironed out all of our differences and we now have the bill that should have the support of the House and the administration.

At the moment, the District of Columbia is being funded on a temporary basis through a continuing resolution. It is critical that we pass this amendment as soon as possible because the Congress has yet to pass a District of Columbia rescue package and the management reform plan, which we enacted in August. Passage of this bill will ensure that that work goes forward to restructure the city's finances and impose some much-needed management reforms on the city and its various agencies.

The amendment being offered in the nature of a substitute to the District of Columbia appropriations bill will provide funding of $8 million for management reforms, and these reforms are already under way. But without passage of this bill, the reform program will simply fall apart.

Mr. President, this amendment is very similar to the District of Columbia appropriations bill that has been pending before the Senate for several weeks. This amendment reflects the work of the Congress, city officials, and the financial control board to bring about a balanced District budget. This budget is balanced 1 year ahead of the schedule set by the Congress in 1995 when it created the financial control board to rescue the city from insolvency and incompetence.

To reach consensus on how to balance the budget, the control board and the elected city council first rejected several of the proposed budgets. This budget is a more conservative approach. This amendment actually cuts most city agencies, with a few exceptions, such as public safety. The focus of this bill is to balance the budget and reform the city's management problems.

It is a good bill and I urge its support by my colleagues. I want to especially thank the ranking member, Senator BARBARA BOXER, and KAY BAILEY HUTCHISON for their hard work on the Appropriations Committee. I want to thank the chairman of the Senate Appropriations Committee, Senator STEVENS, and the distinguished ranking member of the Senate Appropriations Committee, Senator BYRD, for their help and guidance in the past several months. I also wish to take a moment to thank Mary Beth Nethercutt, Jim Hyland, Dave Landers, of my staff, Jay Kimmit, and the rest of the minority staff for their help on this bill.

Mr. President, I yield the balance of my time.

PRIVILEGE OF THE FLOOR

Mr. GREGG. Mr. President, I ask unanimous consent that the following staff members be granted full floor privileges during consideration of the District of Columbia and Omnibus Appropriations bills; James Morhard, Paddy Link, Kevin Linskey, Carl

Truscott, Dana Quam, Vas Alexopoulos, Luke Nachbar, Scott Gudes, Karen Swanson Wolf, Emelie East, and Jay Kimmit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I want to speak briefly about the appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for Fiscal Year 1998. The provisions came about through bi-partisan negotiations and provides $31.8 billion, an increase of $30.9 million above the House level, $135.3 million above the Senate level, and $297 million less than the President's request.

Before getting to the details, I want to thank Senator HOLLINGS, and his staff, Scott Gudes, Karen Swanson-Wolf, and Emelie East for all their hard work and dedication to getting this bill written and passed. Their efforts and expertise helped smooth the way for its success through the 99–0 vote in the Senate in July and its presentation to you today.

The committee amendment includes many of the provisions that the Senate gave top priority to in its bill, but the funding levels reflect our negotiations with the House. Within the Justice Department, the committee amendment retains the Senate initiatives to fight crimes against children, increases assistance to state and local law enforcement, strengthens counterterrorism activities, bolsters drug control efforts, and provides funding for new juvenile programs.

We have funded many programs that will further our efforts in preventing and combating crimes against children. The amendment provides $10 million in additional funding for the FBI's efforts to stop child exploitation on the Internet. In addition, we're making sure those organizations that work closely with the FBI also receive adequate funding to provide much needed support. There is $1.7 million for Missing Children; $6.9 million for the National Center for Missing and Exploited Children, of which $1.9 million is provided for Internet investigations; $1.2 million for the Jimmy Ryce Law Enforcement Training Center for State and local law enforcement investigations; and an additional $2.4 million for State and local law enforcement to form specialized units to investigate and prevent child exploitation on the Internet. These agencies have promising ideas of ways to improve current law enforcement procedures in this area to stop pedophiles from committing further atrocities.

We believe it is the national interest to improve the skills of law enforcement personnel on all levels and supports initiatives to do this. The Community Oriented Policing Services, known as the COPS program, is funded at $1.4 billion. As part of this provision and with direct funding, we were able to preserve the Senate number of $25 million for the Regional Information Sharing System so that law enforcement officers throughout the country have increased access to national criminal databases.

The Committee amendment includes an increase in funding for the Violence Against Women Act grants to $270.7 million. We recognize the need to enhance and expand current women's assistance programs as violent crimes against them continue. The Violence Against Women grants will be given to States to be used to develop and implement effective arrest and prosecution policies to prevent, identify, and respond to violent crimes against women. This funding provides domestically abused women and children with additional support services. Only 20 states received Violence Against Women grants in 1996. We believe there should be sufficient funding for more states to participate in these programs. Consequently, we have appropriated funds for this effort.

In this amendment, we remain committed to ensuring that the U.S. law enforcement and intelligence community has a comprehensive strategy to combat domestic and international terrorism. In May Congress received from the Attorney General a comprehensive counterterrorism strategy compiled with consultation with other key departments and agencies. During subsequent oversight hearings, it became apparent that vulnerabilities to our national security still exist, especially to the emerging threats from chemical and biological agents and cyber attacks on computer systems within the United States. The hearings also emphasized the need for our efforts to be constantly coordinated among the many participating departments and agencies to make this very critical mission successful. To do this, the conference agreement provides $32.7 million for the Counterterrorism and Technology Crime Threat.

We remain concerned about the proliferation of illegal drugs coming across our borders and its impact on our children. In an effort to support law enforcement efforts to combat the rampant spread of illegal drugs, the committee devotes $11 million through the DEA to combat the trade of methamphetamine and $10 million for efforts to reduce heroin trafficking. The COPS Program includes $34 million to stop methamphetamine production. We have created a new Carribean initiative that will disrupt the drug corridors and block the flow of illegal drugs into the United States.

Over the last few years, the infrastructure needs of the organizations funded in this bill have been neglected. We have made a point of providing funds to repair buildings throughout our agencies. Over $300 million will go to the Federal Bureau of Investigation, the Drug Enforcement Agency, and Bureau of Prisons to make much needed infrastructure improvements.

Regarding the INS, the agreement provides 1000 Border Patrol agents, over $200 million in new initiatives to restore the integrity of the naturalization process, and adds 1000 new beds for detention, and the ultimate deportation of criminal and illegal aliens.

As a last mention within the Justice portion of the bill, we have increased funding to $238.6 million dollars for juvenile justice prevention programs with an additional $250 million for a new juvenile accountability block grant.

In the area of the Commerce Department, we have made some difficult decisions, but, I think they are constructive ones. We have, for example, provided strong support for the National Oceanic and Atmospheric Administration, which does high quality research and provides technical data important to our economy. The Sea Grant program, which conducts research of regional importance through colleges and universities, is strongly supported in this bill at a level of $56 million.

The committee amendment provides increased funding for the National Weather Service. Many of us are concerned that the agency have the necessary resources to ensure timely warnings of severe weather, including tornados and hurricanes.

There is $23.4 million for the U.S. Trade Representative taking into account the amended request made by the President recently.

The Bureau of Export Administration has two new requirements which deserve mention. First, the Department of State's encryption export control responsibilities have been transferred to the Export Administration. Second, with the ratification of the Chemical Weapons Convention, the Export Administration will have primary responsibility for enforcing the convention and is thus provided with $1.9 million to do this.

And I've kept the best for last—well, at least the issue that seems to have the most interest of late—The Census compromise achieved by the White House and the House leadership—it has two parts. First, it establishes a commission to oversee the Census and report regularly on the conduct of the Census. Second, it establishes fast track procedures for judicial review of sampling.

In the Judiciary portion of the bill, we have had to confront some difficult issues, but, I believe we are providing the American people with a better Judiciary through our efforts. The appropriation is sufficient to maintain current judicial operation levels and takes into account the increase in bankruptcy caseloads and probation population. We are also providing the Justices and judges with the 2.8 percent cost of living adjustment requested in the President's budget.

We have established a commission to study the current structure of the circuit courts, especially the controversial Ninth Circuit. During the 1996–1997 session, the U.S. Supreme Court overturned 96 percent of the decisions they reviewed from the Ninth Circuit. This

high turnover rate is a beacon that the Ninth Circuit is not meeting the needs of the people it serves. The debate over whether to split it has raged for some years. The commission should end the debate over the Ninth Circuit once and for all.

Moving on to the State Department, we have fully funded, to the best of our ability, the operations carried out by this Department. We made sure that the day-to-day functions of the State Department are funded at acceptable levels, and we are trying to upgrade their outdated technology systems. Maintaining infrastructure was a top priority for the Senate this year. We are providing $21.4 million above the President's request for the Capital Investment Fund so that desperately needed upgrades in information and communication systems can be done.

And as a final noteworthy item, this bill covers the first down payment for U.N. arrears as well as the State Department Reauthorization bill which includes U.N. reform and State Department reorganization, which we have worked so hard to achieve.

That is a quick run down of the Commerce, Justice, State, and Judiciary provisions before us. I want to thank my staff—Jim Morhard, Kevin Linskey, Paddy Link, Carl Truscott, Dana Quam, Vas Alexopoulos, and Luke Nachbar—for all their hard work. They, and their democratic counterparts, have spent long hours drafting this legislation. I believe this amendment contains sound provisions that have been agreed to by both parties. The departments and agencies funded in this legislation can only benefit from the passage of these new funding levels. I urge all of my colleagues to support the passage of this committee amendment.

Just to quickly comment on that section of the bill, the language which is in this bill dealing with the funding for State, Commerce, Justice, is similar to the language which passed this Senate by a 99–0 vote. The language which is before the Senate at this time is language which has been agreed to by the Democratic and Republican members of the Appropriations Committee unanimously. Again, I strongly encourage the Senate to pass it.

At this time, I yield back the time allocated to myself and Senator HOLLINGS under the bill.

The PRESIDING OFFICER. Without objection, the time is yielded back.

Who yields time?

Mr. STEVENS. Mr. President, we are awaiting another Member who wishes to ask some questions, so I will not yield my time yet.

Mr. BYRD. Mr. President, I fully support the efforts of the chairman, and I congratulate him for the proposal that he has just described which, if adopted, makes it possible to greatly shorten the process of completion of the remaining appropriation bills.

The pending amendment contains the committee's recommendations for the remaining three Fiscal Year 1998 appropriation bills, namely, the Commerce/Justice/State, District of Columbia, and Foreign Operations Appropriation Bills. As Members are aware, the Commerce/Justice/State and Foreign Operations Appropriation Bills were passed by the Senate in July of this year and have been in conference with the House. For those two bills, the committee's recommendations include, to a large extent, the agreements reached by the House and Senate conferees. There are, however, certain issues upon which the conferees were unable to reach agreement. For those particular issues, the committee has recommended proposals which we hope will be acceptable to the Senate and, if so, which the House can then accept. The chairman and ranking member of the Commerce/Justice/State Subcommittee, Senators GREGG and HOLLINGS, and the chairman and ranking member of the Foreign Operations Subcommittee, Senators MCCONNELL and LEAHY, will make statements regarding their portions of the pending amendment. These very capable chairmen and ranking members have worked tirelessly for months on their respective bills, and they are to be commended by the Senate for their efforts.

For the District of Columbia, as Senators are aware, the Senate has not yet passed the Fiscal Year 1998 appropriation bill. Here again, there are a number of issues which, up to this point, have been unresolved. I am certain that the distinguished chairman of the subcommittee, Senator FAIRCLOTH, and the equally able ranking member, Senator BOXER, will explain in some detail the D.C. portion of the pending amendment and will be prepared to answer any inquiries which Senators may have.

Mr. President, hopefully we are nearing the conclusion of the Fiscal Year 1998 appropriations process. As I have stated, the pending substitute, if enacted, will complete action on the remaining three appropriation bills. Like last year, this has been a very difficult year for the Appropriation Committees. These difficulties, however, like in other recent years, are due largely to attempts to attach controversial legislative riders to appropriation bills. The delays in enacting the remaining appropriation bills are in no way attributable to the chairman or other members of the Appropriations Committee.

In his first year as chairman of the committee, Senator STEVENS has carried out his responsibilities in an outstanding manner. At every step of the process, from the first meeting of the committee this year and throughout all of the hearings and markup sessions that he has chaired, he has shown not only great expertise and skill as it relates to all appropriation matters, but, just as importantly and, perhaps more so, my distinguished friend and colleague from Alaska, Senator STEVENS, has unerringly displayed great patience and bipartisanship on every occasion throughout this, his first year as chairman of the committee. I know that he would have preferred, as I would, to have the thirteen appropriation bills separately adopted and signed into law. But at this late date, I support the chairman's decision and commend him for bringing this proposal to the Senate that, if agreed to, will enable us to complete action on the remaining bills expeditiously.

It may well be that the House will be unable to agree with every recommendation made in the pending substitute. If that is the case, the House may wish to ask for a conference with the Senate on the matter; or, the House could simply amend the Senate amendment and send the bill back to the Senate without the need for a conference. My point is, that even with the adoption of this proposal, we are not out of the woods. Further action may be required by the Senate. But, I am convinced that if we proceed in the regular manner and continued separate conferences on the Commerce/Justice/State and Foreign Operations Appropriations Bills, and separately complete action in the Senate on the District of Columbia Appropriation Bills, and then conference with the House on it, we may be in for several more weeks of controversy on these outstanding issues on the remaining appropriation bills. Furthermore, there is no assurance that these separate conferences would ever be able to overcome the impasses which have developed and mired them down.

Mr. President, I want the RECORD to show that if given the opportunity to vote on these three appropriation bills separately, I would have voted against passage of the conference report on the Fiscal Year 1998 Foreign Operations Appropriation Bill. At a time when we are under continuing severe budgetary constraints on discretionary spending for our nation's infrastructure—its highways and bridges, water and sewage treatment projects, education and other national priorities—I am opposed to providing appropriations for foreign countries at the same or increasing levels year after year. For example, in my view, the $3 billion payment to Israel and $2 billion payment to Egypt should be reduced under the circumstances facing the nation. Even though we are achieving reductions in the Federal budget deficit, we nevertheless still have a Federal debt exceeding $5.43 trillion and the interest on that debt each year amounting to $251 billion.

I strongly urge all members to support the chairman of the committee, as well as the chairmen and ranking members of the relevant subcommittees, in the proposal that is before the Senate, and I urge its adoption.

Mr. STEVENS. Mr. President, I call attention to the fact that we will file a statement within 2 days following passage of the bill after the House has acted on the bill, or Congress as a

whole. That will be printed as a document, to be a report for this bill that combines these three appropriations bills.

The Senator from Michigan has 10 minutes. If he wants to use that now, Mr. President, I would be pleased to yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I thank the Senator from Alaska.

I wish to speak in relationship to this legislation, and in favor in particular of title II of the District of Columbia portion of this legislation.

Title II incorporates an agreement reached recently between House and Senate negotiators to correct provisions in last year's immigration law. These provisions, as they were being interpreted by the Board of Immigration Appeals and others, would have had the effect of changing the rules in the middle of the game for thousands of Central Americans and others who came to the United States because their lives and families had been torn apart by war and oppression and are seeking permanent residency here. That violates the sense of fairness that is so much a part of the American character.

Mr. President, during the 1980s civil wars rocked Central America. These civil wars in Nicaragua, El Salvador, and Guatemala were of great importance to the United States. They critically affected our national security policy, as well as our conception of America's role in the Western Hemisphere.

In 1979, the Sandinistas seized power from Anastasio Somoza. Upon gaining control of the state they carried out a program of land seizure, suppression of civil liberties, and other forms of oppression. They also aligned themselves with the communist government of the Soviet Union. A number of groups formed, seeking to overthrow the Sandinista regime, including some who had played an active role in the overthrow of Somoza on account of his civil liberties violations. These groups ultimately were supported by the U.S. government and became known as the Contras.

The Contras' cause ultimately met with success when, in a stunning upset, Violeta Chamorro defeated the Sandinistas in national elections. But the war, combined with a United States embargo on trade and a series of natural disasters, ruined the economy and added to the unrest that endangered many lives. Approximately 126,000 Nicaraguans fled their homeland, came to the United States, and applied for asylum between 1981 and 1991. That was a quarter of all our asylum applications during that time period.

During that same time, El Salvador experienced a brutal civil war which left tens of thousands dead. Over a quarter of the population were driven from their homes. The economy was left in a shambles. Faced with these terrible circumstances, and with continual danger for themselves and their families, hundreds of thousands of Salvadoran made their way to the United States. They asked for asylum because they feared death at the hands of the leftist guerrillas partially backed by the Sandinistas in Nicaragua, or at the hands of the military and the extremist death squads. Between 1981 and 1991 approximately 126,000 of these Salvadorans applied for asylum.

During the same era, Mr. President, the people of Guatemala faced similar tragic and extremely dangerous circumstances. Approximately 42,000 of them made their way here and applied for asylum in the Untied States.

A great many of the Central Americans who came here during this period received some form of encouragement or support from our government for that decision. This started in 1979, when President Carter's Attorney General used his discretionary authority to protect recent arrivals from Nicaragua by establishing an extended voluntary departure program for them. When that program expired, it was extended further through a variety of other congressional and administrative actions.

During the early to mid-1980s, Nicaraguans' claims for asylum had a high success rate, and very few were deported. That success rate began to decline toward the end of the decade. Recognizing the dangers presented by the civil war, however, the Reagan administration in 1987 established a special Nicaraguan Review Program. Based in part on a recent Supreme Court decision bearing on the standard of proof for asylum, the NRP encouraged Nicaraguans to reapply for asylum under the new standard, thereby providing an extra level of review to Nicaraguans whose applications had been denied.

When Violeta Chamorro won the election in 1990, conditions in Nicaragua began to change for the better and the Nicaraguan Review Program began to dissipate. In the meantime, however, many of the Nicaraguans had laid down strong roots here.

The Nicaraguan Review Program was officially ended in 1995. However, the INS established a special phase out program under which Nicaraguans could remain in the country an additional year and receive work authorization. The work authorizations were again renewed in 1996.

There were a number of reasons for this phase out program. But one of its purposes, as expressly stated in agency documents, was to allow the Nicaraguans who had laid down roots here to utilize the additional time to accrue the 7 years they would need to be eligible to adjust their status to legal residents under a procedure called ''suspension of deportation.'' In one form or another, this relief has been in existence for 40 years. In recent times, and until April 1 of this year, it was available to anybody who had been here for 7 years, was of good moral character, and whose deportation would cause extreme hardship to the person or his or her citizen or permanent resident immediate family members.

The Salvadorans and Guatemalans likewise received special protection from U.S. government authorities. Their asylum claims received a less sympathetic hearing initially. As a result, the Salvadorans filed a class suit, knows as the ''ABC''' class action, subsequently joined by the Guatemalans, in which they challenged the way in which their asylum applications were being handled. President Bush's Administration settled this suit by agreeing to readjudicate their claims, and in order to facilitate this Congress gave the class members a special ''temporary protected status'' in the 1990 Immigration Act. That temporary status was administratively extended in one way or another while the class members awaited their readjudications.

My point, Mr. President, is that during the 1980's people fearing persecution, fearing death squads, fearing disruptions of their communities, came to America and we took extraordinary measures to make it feasible for them to stay here, even if they had been denied asylum through the official asylum-seeking procedures.

At every step of the way, acts of Congress or acts of the executive branch gave these refugees a very clear signal, that they would be able to remain if they played by the rules then in existence. An informal understanding developed that in the absence of some other mechanism being devised, suspension of deportation would be the means through which they would become permanent residents of this country.

That understanding was undermined when last year's immigration bill changed the rules for suspension of deportation. There are good arguments, Mr. President, indeed, I believe, arguments that would ultimately prevail if tested in court, that those changes were not intended to operate retroactively. That, however, was not the view of some of the leading sponsors of these changes, nor was it the initial view of the INS or the Board of Immigration Appeals. As a result, these Central American refugees—as well as refugees from other countries in like circumstances—face the realistic prospect that a retroactive change in our laws might uproot them yet again.

I am happy to say that, under the negotiated arrangement with the House, this will not happen. The U.S. government will keep its word to Central Americans.

Under the version of the legislation incorporated into this bill, Nicaraguans who were in the United States prior to January 1, 1995 will be permitted to adjust to permanent residence—and get green cards—if they have maintained a continuous presence here. The same right will be extended to their Nicaraguan spouses and children.

In addition, Salvadorans, and Guatemalans who either applied for asylum before 1990 or were members of the ABC class action suit settled with the U.S. Government, as well as members of their families, will be entitled to receive a hearing on their claims for suspension or withholding and adjustment under rules similar to those in effect prior to the 1996 immigration law. Nothing in the amendment precludes the Government from adapting those rules further to the special circumstances of that class.

Similar relief will be available to those who fled communist regimes in Eastern Europe and the former Soviet Union by December 31, 1990, and filed an asylum claim by December 31, 1991. They too will be able to seek suspension of deportation or withholding of removal under the rules similar to those in effect before passage of last year's law.

This relief also improves current law as applied to the members of these groups in two other respects. First, members of these groups will be eligible to have their cases adjudicated under the more generous rules whether or not they were in deportation proceedings as of the effective date of last year's immigration law. That makes good sense. There is no reason to apply the more generous rules to someone who filed an asylum application, lost on it, and was placed in deportation proceedings, while subjecting to the new rules someone who filed an asylum application at the same time and whose asylum claim has yet to be adjudicated.

Second, none of these refugees will be subject to the 4,000 cap last year's law placed on the number of adjustments that may be granted in any given fiscal year. Thus they will not have to wait in line for a number to become available before their application may finally be acted on. With Central Americans and Eastern Europeans being placed outside the cap, it is expected that the 4,000 ceiling will accommodate the ordinary flow of successful applicants. Should there be more favorable adjudications than 4,000 in any fiscal year, the legislation assumes the INS will continue with its present approach of only issuing conditional grants until a number becomes available. Thus no one who would be the beneficiary of a favorable adjudication would be forced to depart because of the cap's having been reached.

When the outlines of an agreement along these lines first emerged in the House, it included a proposal to eliminate an entire category of legal immigration, albeit a relatively small one, as the price for allowing these people to seek to stay under the rules they had been told would apply to them. Under the final version of the agreement embodied in this amendment, there will be no elimination of any legal immigration category. There will be a temporary reduction of no more than 5,000 visas per fiscal year in the ''other workers'' employment-based immigration category, but only after those now in the backlog receive their visas. There will also be a temporary reduction of not more than 5,000 visas per fiscal year in the Diversity visa program. These temporary reductions will last until the cumulative total of these reductions equals the number of Salvadorans and Guatemalans who ultimately adjust to permanent residence. The numbers will be taken evenly out of the two categories.

The legislative process of necessity involves compromise. The version of this legislation before us today contains some provisions that were not in Senator MACK's original proposal. I am quick to say I preferred the original for that reason. First, while I think that temporary reductions in legal immigration categories are far superior to elimination of any, as the House originally proposed, I am not persuaded that we should be doing either. Moreover, since we have current categories with unused visas, if we must turn anywhere to ''borrow'' visas for these refugees, an approach that I feel is at odds with our humanitarian traditions, I would prefer to borrow any unused visas from the previous fiscal year before making any reductions.

Second, while the legislation makes clear that no retroactive change is to be made in the standards for suspension of deportation as applied to Central American, Eastern European, and Soviet asylum applicants, it also makes clear that we are retroactively changing those standards for everybody else. I see no reason to do so. I have opposed the retroactive application of this provision to all individuals, regardless of their nationality. This is not because I take issue with the objective I believe the House is seeking: to make it harder for some people who have been abusing the rules by dragging out their deportation proceedings in order to accrue the 7 years they need for suspension of deportation. The problem is that the legislation does not and cannot distinguish between those who have been taking advantage of this loophole and others who have done nothing wrong and who have been stuck in administrative backlogs through no fault of their own.

Retroactivity is particularly unjustified with respect to refugees from countries not covered by this compromise who have equities similar to those of the Nicaraguans, Salvadorans, and Guatemalans. In recent years, many people came to the United States under a legal or quasi-legal status, fleeing tyrannical regimes that were either enemies of the U.S. or allies whose domestic abuses were countenanced because of the country's strategic significance in the struggle for world freedom going on at the time. The retroactivity may force some of these people to leave despite the roots they have laid down and the fact that the conditions they are returning to remain dangerous.

Despite these reservations, I support this agreement. On the whole it will advance the cause of fairness and the promise that America will make good on its commitments better than if we were to do nothing. It will free a large number of people from the threat of immediate deportation. It will allow some of them to adjust to legal status and assure others of a fair hearing on their effort to do so. Accordingly, Mr. President, I urge adoption of this legislation.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Mr. President, I am very pleased to be here, even though it is 7 o'clock on Sunday night, to finally finish up the D.C. appropriations bill. When Senator FAIRCLOTH and I started working together on this, it was way back in the summertime, and in September our bill, this D.C. appropriations bill, was voted out of committee.

It was very easy to do that because the mayor, the city council, the control board, all agreed on the D.C. budget. We basically put it in this bill and we followed on the authorizing committees which had passed the National Capital Revitalization and Self-Government Improvement Act. So what we did was to carry forward the will of this Congress and the will of the people of D.C. as repleted by their control board, their city council, and their mayor putting together a consensus balanced budget.

That all was fine until we came to the floor and, of course, suddenly this bill became a very attractive sort of Christmas tree, way before Christmas, and Senator FAIRCLOTH and I found ourselves looking at each other as the debate swirled around us on immigration, on school vouchers and other things that we really did not anticipate being a part of this bill.

The two of us had very much wanted to move it forward, and I was very candid at the time that there were a couple of provisions in this bill that I was not happy about because I did not think it showed enough respect for the women of D.C. in terms of their right to choose and to those who are seeking recognition of domestic partners, which I think is a local issue.

But I stated at that time that majority rules, and I was not going to hold up the bill because I did not agree with these things, and so we were ready to move forward.

I am very pleased tonight that we have a resolution on the immigration portion. It was a very legitimate issue that was raised by Senators KENNEDY, MACK, and GRAHAM, and I think Senator ABRAHAM was very eloquent on the point that there were in fact refugees who came from Nicaragua, Cuba, El Salvador, and Guatemala who were going to be thrown out of the country without any sort of hearing whatsoever. Senator MOSELEY-BRAUN has raised the issue of Haitians in a similar

situation. Although this bill is silent on that, I think we have found other ways to handle her concerns. So it appears to me that we are on our way to having a bill for the people of Washington, DC, and the children of Washington, DC, who desperately deserve to have this bill completed.

The issue of vouchers was handled, I thought, in quite a diplomatic way, which was to remove it from this bill and send it forward to the President as a separate vehicle. I think that really is a way to resolve the problem which right now is very contentious on both sides.

So, Mr. President, I do not have any further comments to make at this time. I stand ready with my colleague from North Carolina to vote on this tonight. I understand we will voice vote it. I understand there are some colleagues who have other things they wish to discuss. I know Senator WYDEN had a provision in the bill, which I strongly supported, dealing with the end of anonymous holds that we have had as a Senate prerogative around here. That appears to be an issue of contention that is no longer in the bill.

So at this time I retain the remainder of my time in case colleagues come over and need it, but at this time I yield the floor.

Mr. President, with the understanding that Senator STEVENS is going to enter into a colloquy with Senator WYDEN, I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I yield such time to the Senator from Oregon as he wishes. I know he has a matter he wishes to discuss, and Senator BYRD and I have time so he can use whatever time of that he wishes.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. I thank the Chair. I thank the chairman of the Appropriations Committee. He has been exceptionally kind to me as a new Member of the Senate. I thank him for yielding to me this time.

Mr. President, I ask unanimous consent at this time that I be permitted to offer my amendment to prohibit secret Senate holds which was agreed to previously in the Senate D.C. appropriations bill.

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I do object.

The PRESIDING OFFICER. There is objection.

Mr. WYDEN. Mr. President, then in light of the time that the chairman of the Appropriations Committee has kindly yielded to me, I should like to take a few minutes to describe why I think this issue is so important.

Mr. President and colleagues, I spoke yesterday afternoon in this body on the need to end Senate secrecy. Within an hour of my talk, three of the most senior Members of the Senate came to me and said they hoped this amendment would prevail.

These three Members probably have an aggregate total of 60 years seniority in this body, and each of them told me that they had been frustrated by instances of this hide-and-seek process that the Senate now has with secret Senate holds.

Certainly most of the American people are not aware of what a hold is. But the fact of the matter is, it is now possible for any Member of the U.S. Senate to unilaterally block the consideration of a bill or nomination from coming to this floor. It is an extraordinary power. It keeps the U.S. Senate from even discussing a nomination or a particular bill. It is one thing to object to something, or plan to vote against something. But in the case of the secret Senate hold, one Member of the U.S. Senate, one Member, can block the consideration of a nomination or bill. And during these last days of a session, this power is not just extraordinary, it is essentially a veto. It is a power that is unbeatable.

I would just say to my colleagues that, as a new Member of the U.S. Senate, every day I am impressed by the greatness of this institution. And I don't think that the greatness of this institution will in any way be diminished if this body is open and accountable. I think that is why senior Members of the U.S. Senate have come to Senator GRASSLEY and myself and said, ''I hope you prevail on this.''

We are not seeking to block the right of a Senator to impose a hold. Under what we have proposed, each Member of the U.S. Senate could still use the hold, block the consideration of a nomination or bill. All we are saying is that it cannot be done behind closed doors. This Senate secrecy doesn't smell right. It doesn't pass the smell test to the American people. What Senator GRASSLEY and I have proposed is that within 48 hours after a Member of the Senate informs the leadership that he or she is going to put a hold on a bill, that be so noticed in the CONGRESSIONAL RECORD.

Recently there were more than 40 holds. Outside, much of the day, has been a group of people, outside the Chamber, simply trying to keep track of all the revolving holds, where a Senator imposes a hold for a short period of time and then, in effect, another Senator comes along and imposes a hold again. Outside the Chamber throughout this day there have been individuals trying to keep track of what is going on.

I would say to my colleagues, I subscribe to the not exactly radical notion that public business is done in public. The use of this hold in the last few days of a session is not just some small thing. It is an extraordinary power. It can affect millions of dollars. It can affect the course of the judiciary and other key executive branch appointments. I am very concerned that at a time when the public is so skeptical and so cynical about Government, that this use of the secret hold simply feeds that cynicism. It contributes to the sense that the American people have that so much in Washington, DC, is not on the level.

So, I am very grateful to Chairman STEVENS for giving me this time to explain my point of view. Senator GRASSLEY and I have indicated that we will be back. We will be back at the beginning of next session. I have tried for almost 15 months to get this issue before the U.S. Senate. The fact is, it is most abused right at this time, which is why we saw last week more than 40 holds. It was the subject of a hilarious press conference with the Senate minority leader, who said then that he couldn't figure out where all the holds were coming from.

So Senator GRASSLEY and I are not going to prevail tonight. I think that is bad news for democracy. I think the secret hold cheapens the currency of democracy. But we will be back. We will be back until we make this institution more open and accountable.

Senator STEVENS has been kind to give me all this time to explain my views. I appreciate that courtesy very much and I thank him for the time.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Alaska.

Mr. STEVENS. Mr. President, I regret that I have objected to the amendment. I tell my friend from Oregon that the practice that he seeks to change is embedded in our rules; not in any law. During the period of time that I served here, 8 years as whip, Republican assistant leader, 4 years in the minority and 4 years in the majority, we had a different way at that time of handling what is now known as a hold.

A hold is nothing more than an agreement of another Senator to object on behalf of a Senator at the request of the second Senator to prevent a unanimous consent agreement from coming into play. There is nothing in the rules about holds. It is a practice that has built up. To try to pass a law to deal with a practice of the Senate—I would call to the attention of the Senator from Oregon, there is a law that Congress cannot sit in Washington after July 31st. It has been the law for many years.

We will not change the practices of Senate by law. What we have to do is get some rule changes, or a standing order that would apply to Senators. But the issue is whether a Senator in each instance, in this case whether the leaders, may object on behalf of a Senator who says, ''I want to object and I may not be there at the time the subject comes up, and I want you to object for me.'' That is known as a hold today.

When I first came to the Senate there was an official objectors' committee. It was unofficial in that sense, but on each side they had two or three Senators who agreed to be on the floor. At any time, one of them was here. And they objected to unanimous consent requests if they had been requested to do so by Members.

It later became a prerogative of the leadership to do that. I think I would have to rely on my friend from West Virginia to give the complete history of it. I do not have the memory that he has. But I can assure you that he will instruct us one of these days about the history of this practice.

But I do regret having to object. I understand what the Senator from Oregon and the Senator from Iowa are trying to do. I wish them success, because I find holds to be very burdensome to deal with, whether it's from the leadership point of view or the point of view of a chairman of a committee.

Mr. WYDEN. Will the chairman yield briefly for just a moment?

Mr. STEVENS. Just for a few minutes, because I agreed to go to dinner with my wife tonight. If the Senator will be short, I will be glad to yield.

Mr. WYDEN. I thank the chairman. Far be it from me to interfere with that.

First, I thank the chairman for his courtesy and say I would very much like to work with him, to get this practice changed. I have, in fact, spent a considerable amount of time with Senator BYRD on this. He was very helpful as well.

I would finally say to the chairman that with respect to this matter of courtesy, I and Senator GRASSLEY have no concern about that. Of course the hold, if we are talking about a few days or a few hours as a courtesy, is not what is at issue. It is when a Senator digs in to try to block a bill that there ought to be some public disclosure.

But to me the chairman has been very helpful, not just on matters from our committee like Internet and the like, but generally. I want to tell him I am very interested in working with him on it because I think this is an opportunity to keep the greatness of this institution and still make it more open and democratic. I thank him for all the time.

CENTRAL AMERICAN REFUGEES

Mr. KENNEDY. Mr. President, this appropriations bill contains immigration provisions to provide much-needed protection from deportation for Central American refugee families and an opportunity for permanent residence in the United States under our immigration laws.

This legislation is an important step, and I commend Senator MACK and Senator GRAHAM for their extraordinary work and leadership in helping these refugee families and for bringing this issue before the Senate.

I deeply regret, however, that these provisions don't go far enough. Last year, Congress changed the rules and broke the faith with thousands of refugee families from Central America and Haiti who fled civil war, death squads, and oppression. They found safe haven in America, and they have contributed significantly to the United States and to communities across the country.

They were allowed to remain in the United States under bipartisan immigration rules established by President Reagan, affirmed by President Bush, and reaffirmed by President Clinton.

But last year, the Republican Congress withdrew the welcome mat. Now, these deserving families who have suffered so much are suddenly faced with deportation. They had been promised their day in court, but that day has been unfairly denied.

This legislation is a frank admission by the Senate that last year's immigration law treated these families unfairly, and that something must be done to correct this grave injustice.

But instead of correcting the injustice for all refugees, Republicans now propose to pick and choose among their favorite Latino groups, and deny any relief to Haitian refugees at all.

Republicans want a blanket amnesty for Nicaraguans and Cubans, but far less for Salvadorans and Guatemalans who also faced oppression and civil war.

They also provide protection from deportation for Eastern European refugees, but nothing for those who fled for their lives from Haiti

The Republican proposal is unjust and shamefully discriminatory. These refugee groups faced similar circumstances and have a similar history. First the Reagan administration, then the Bush administration, and then the Clinton administration assured them that they could apply to remain permanently in the United States under our immigration laws. Under those laws at that time, if they have lived here for at least 7 years and are of good moral character, and if a return to Central America or Haiti will be an unusual hardship, they are allowed to remain.

Last year's immigration law eliminated this opportunity for these families by changing the standard for humanitarian relief. It said the families had to live here for 10 years, not just 7, to qualify to remain. It created a much higher standard for proving that their removal from the United States would pose a great hardship to the family. It limited the number of persons who could get relief from deportation to only 4,000 per year. All other families would be deported, even if they otherwise qualified for relief under this program.

Americans across the political spectrum have called on Congress to ensure that the rules are not changed unfairly for these families. President Clinton has urged Congress to give them the day in court they have been promised for the past decade.

They include people such as Zulema, who fled to Miami in 1986 to escape civil war. Her husband and four children are all legal permanent residents of the United States. They have their green cards. Two of the children are now serving in the U.S. Army and have been stationed in Bosnia. But Zulema still does not have her green card and faces deportation.

Her family escaped war and persecution. They rebuilt their lives in America. Her children have put their lives on the line in Bosnia in service of their adopted country. It is unfair to suddenly change the rules and deport their mother.

Roberto, age 6, was abandoned by his parents in El Salvador during that country's tragic civil war. He came to the United States and was raised here by his aunt, who is an American citizen. Today, he is 18 years old and a freshman at Middlebury College in Vermont. He is an honors student planning a career in medicine. His only memories of El Salvador are of the war. He does not even know if his parents are still alive. Roberto, too, faces deportation.

These are the kinds of persons we are talking about. They have played by the rules laid down by both Republican and Democratic administrations. They have obeyed the law. They have made worthwhile contributions to our communities. In fact, the assistant manager of Dade County in Florida estimates that Dade County would lose $1 billion in revenue if these families are forced to leave.

But while offering assistance to Central American refugee families, the provisions of this amendment contain troublesome inequities that cannot be ignored.

The Republican bill provides for case-by-case consideration of the applications of refugees from El Salvador or Guatemala. Under current INS practices, less than half of those eligible to apply are expected to get their green cards. But refugees from Nicaragua and Cuba get a blanket amnesty.

Refugees from all four countries fled violent civil wars, death squads, rogue militias, and violations of their basic rights. Their families suffered persecution and death threats. Once here, they followed the rules laid out by our Government. But now, one group gets green cards—no questions asked—while the other is considered only on a case-by-case basis.

I am also concerned that this legislation does not also help refugees from Haiti. In the Bush administration—and again in the Clinton administration—Haitian refugees, like Central Americans, were granted temporary haven in America from the rampant persecution and violence in Haiti. Many Haitians risked their lives by opposing the forces of oppression in their country and standing up for democracy and freedom. Yet, this amendment does nothing for these deserving families. They deserve their day in court, too.

Congress should act on behalf of these Haitian families too, and I hope we will do so before the session ends.

Once again, I commend Senator MACK and Senator GRAHAM for their leadership on this important issue.

I regret, however, that the Republican leadership did not see fit to allow us to offer amendments to ensure equal treatment for all Central American and Haitian refugees.

Mr. KOHL. Mr. President, my thanks to the chairman and ranking member

for their hard work on the District of Columbia appropriations bill and for working with me on an amendment of vital importance to the children and families of the District. I am very pleased that they have agreed to accept my amendment which would allow the District to increase the number of monitors and inspectors responsible for upholding safety and quality standards in day-care centers and home-care operations across the city.

Mr. President, in early October we all had the occasion to read an extremely troubling article on the front page of the Washington Post. As part of a series on welfare reform implementation, the Post discussed the deplorable and unsafe conditions at many District day-care facilities. Many of the problems could be traced to the fact that the people and resources dedicated to overseeing child care centers in the District are woefully inadequate.

We learned that of the approximately 350 public day-care centers in the District of Columbia, more than half are operating without proper licenses. The primary inspection agency has been without a supervisor for almost a year and a half. There are only five inspectors charged with issuing and enforcing licenses to District child care centers, and only three people in charge of certifying which centers should be eligible for public funds. Those who are clearly suffering as a result are the children, far too many of whom are spending their days in an environment where they are unstimulated, uncared for, and even in mortal danger.

The availability and regulation of quality day-care centers and home-care operations in the District and across the country is a crucial component of successful welfare reform. Simply put, welfare reforms will not succeed unless moms and dads across the country have a safe place to leave their children while they are out earning paychecks.

Not only that, welfare reform has and will continue to increase greatly the demand for day-care slots. In the District alone, it is predicted that 4,000 additional slots will be needed to accommodate the schedules of working parents. That number mirrors the situation in the city of Milwaukee in my home State of Wisconsin. As more, new child care centers spring up to meet this new demand, tough, consistent licensing standards, applied and enforced by an adequate number of inspectors, are essential to avoiding more tragedies like we are witnessing in the District.

I am a supporter of welfare reform because I believe the family is strengthened by work. But that premise is destroyed—and the success of true reform, jeopardized—if we force parents to choose between work and the basic safety of their children. As a society, we have a responsibility to help American families become independent, unified, and strong by moving them off welfare and into the workplace. As a people, we have a moral duty to ensure that children of those families are safe and nurtured while their parents work. We will have crippled more than just welfare reform if, because of inadequate attention to the quality of child care in this country, we force parents to turn their children over to dangerous, deplorable child care situations.

I am very pleased that the Senate has agreed to incorporate my amendment into the spending legislation for the District of Columbia. Obviously, this is a crisis situation which the additional staff will help address.

That said, much more needs to be done. This problem goes way beyond a question of mere staffing numbers. As such, in addition to this amendment, the chairman and I will be writing a letter to the Control Board to ensure that oversight and proper licensing and enforcement of safety and quality regulations by District agencies is an integral part of the comprehensive management reform plans scheduled to be unveiled in December.

Specifically, we will press the Control Board on procedures for day-care center and home day-care licensing, rates of inspection, the effectiveness of safety and quality standards at day-care centers and home day-cares, the effectiveness of public subsidy and case referral services in the District day-care system, the effectiveness of the current system of public oversight of day-care center and home day-care operations as conducted by the Department of Consumer and Regulatory Affairs and the Department of Human Services, and appropriate staffing levels at these agencies.

Again, I am pleased that the Senate has agreed to my amendment. I consider it to be one of many steps we need to take on this very important issue. I look forward to working with the District on finding solutions to this and other pressing problems relating to the quality of life in our Nation's Capital.

Thank you.

ARMY CORPS OF ENGINEERS FUNDING

Mr. GORTON. Mr. President, I rise for two brief colloquies with the distinguished chairman of the Appropriations Committee. I first want to bring to the distinguished chairman's attention some confusion regarding the committee's intent for approximately $6 million of the Army Corps of Engineers' budget. This money was intended to fund a very important project in Washington State. Unfortunately, we have been informed by the local Corps of Engineers office that without more specific direction from Congress, the agency cannot spend these funds. The Senate accepted the House position on this project, which was to provide $6 million for the Corps of Engineers to extend the south jetty at the Grays Harbor project to provide a permanent solution to the ongoing erosion problem. Would the chairman agree that my description of where these funds will be spent is consistent with the Conference Committee's intention?

Mr. STEVENS. The Senator is correct. The conference committee intends for the $6 million to be allocated to extend the south jetty at the Grays Harbor project to provide a permanent solution to the ongoing erosion problem

Mr. GORTON. Thank you, Mr. Chairman. My second colloquy pertains to an additional $2 million from the Corps budget that should be allocated to dredge, monitor, and maintain the channel to determine the potential for cost effective maintenance near the Willapa River. Regrettably, the direction that our committee gave the Corps did not adequately distinguish between two phases of the Willapa Project. The first phase, which called for beach nourishment to protect the highway from wave erosion has been completed. The second phase, calling for channel dredging, monitoring and maintenance, has yet to be started. It was the original intention of the project proponents that the $2 million allocated for this project be directed to its second phase. The local office of the Corps of Engineers has indicated that it can spend the funds appropriately, provided it be given the necessary direction by Congress. Mr. chairman, given this misunderstanding, do you have any objection to the Corps using these funds for this purpose?

Mr. STEVENS. I have no objection to the Corps using the funds for that purpose. We have allocated significant funding for these projects and it is very important to ensure the funds are not wasted on needs which have already been addressed.

Mr. GORTON. Thank you very much for the clarification, Mr. chairman. I greatly appreciate the Chairman's efforts on these two projects which address important economic, environmental, and public safety needs in southwest Washington. I also want to commend the chairman of the Energy and Water subcommittee, Senator DOMENICI, whose efforts were crucial to securing the necessary funds.

Mrs. MURRAY. Would the Chairman yield?

Mr. STEVENS. Of course.

Mrs. MURRAY. I would like to thank the distinguished chairman for his hard work on this bill and for his clarification here today. These projects will accomplish a great deal for two communities in southwest Washington state and I appreciate his hard work, as well as that of the subcommittee chairman's.

Mr. MACK. Mr. President, I ask unanimous consent that a section by section analysis of Title II of the D.C. appropriations portion of the omnibus appropriations bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATORY MEMORANDUM REGARDING TITLE II OF THE D.C. APPROPRIATIONS PORTION OF THE OMNIBUS APPROPRIATIONS BILL SUBMITTED BY MESSRS. MACK, GRAHAM, ABRAHAM, KENNEDY, and DURBIN

PURPOSES OF THE BILL

The purpose of this Act is to ensure that nationals of certain specified countries who fled civil wars and other upheavals in their home countries and sought refuge in the United States, as well as designated family members, are accorded a fair and equitable opportunity to demonstrate that, under the legal standards established by this Act, they should be permitted to remain, and pursue permanent resident status, in the United States.

In recognition of the hardship that those eligible for relief suffered in fleeing their homelands and the delays and uncertainty that they have experienced in pursuing legal status in the United States, the Congress directs the Department of Justice and the Immigration and Naturalization Service to adjudicate applications for relief under this Act expeditiously and humanely.

SECTION-BY-SECTION ANALYSIS

Section 201—Short title

This Act may be cited as the ''Nicaraguan Adjustment and Central American Relief Act.''

Section 202—Adjustment of status of certain Nicaraguans and Cubans

This section provides for Nicaraguans and Cubans who came to the United States before December 1, 1995 and have been continuously present since that time to adjust to the status of permanent residents provided they make application to do so before April 1, 2000. The Act also extends this benefit to the spouses, children, or unmarried sons or daughters of those individuals. This portion of the Act is modeled on the Cuban Adjustment Act.

Section 203—Modification of certain transition rules

Section 203 of the bill modifies the transition rules established in Section 309 of the Illegal Immigration and Immigrant Responsibility Act of 1996 (''IIRIRA''), Public Law No. 104–208; division C; 110 Stat. 3009–627.

Section 203(a) amends the transition rule governing eligibility for suspension of deportation for those who were in exclusion or deportation proceedings as of April 1, 1997, the effective date of IIRIRA. Under the rules in effect before then, on otherwise eligible person could qualify for suspension of deportation if he or she had been continuously physically present in the United States for seven years, regardless of whether or when the Immigration and Naturalization Service had initiated deportation proceedings against the person through the issuance of an order to show cause (''OSC'') to that person. As a result, people were able to accrue time toward the seven-year continuous physical presence requirement after they already had been placed in deportation proceedings.

IIRIRA changed that rule to bar additional time for accruing after receipt of a ''notice to appear,'' the new document the Act created to begin ''removal'' proceedings, the repatriation mechanism IIRIRA substituted for deportation and exclusion proceedings. Over a strong dissent, a majority of the Board of Immigration Appeals in Mater of N-J-B- interpreted IIRIRA Section 309(c)(5) to apply not only prospectively in removal cases initiated by means of this new document but also retroactively to those who were in exclusion or deportation proceedings initiated by an order to show cause. On July 10, 1997 Attorney General Reno vacated and took under review the BIA's decision in Matter of N-J-B-.

Section 203(a) generally codifies the majority decision in Matter of N-J-B- by stating explicitly that orders to show cause have the same ''stop time'' effect as notices to appear. Excepted from retroactive application of the ''stop time'' rule are (1) those whose cases are terminated and reinitiated pursuant to IIRIRA Section 309(c)(3); and (2) those who, based on their special circumstances, are eligible for relief from repatriation under this Act, as described below.

As defined in Section 203(a) of the Act (amending IIRIRA Section 309(c)(5)), those who are eligible for relief under the Act (referred to hereinafter as ''Eligible Class Members'') include:

Salvadorans who entered the United States on or before September 19, 1990 and who, on or before October 31, 1991, either registered for benefits under the settlement agreement in American Baptist Churches, et al. v. Thornburgh, 760 F. Supp. 796 (N.D. Cal. 1991) (the ''ABC Settlement'') or applied for temporary protected status.

Guatemalans who entered the United States on or before October 1, 1990 and registered for benefits under the ABC Settlement.

Salvadorns and Guatemalans not included in the foregoing groups but who applied for asylum on or before April 1, 1990.

Nationals of the Soviet Union (or any of its successor republics), Latvia, Estonia, Lithuania, Poland, Czechoslovakia (or its successor republics), Romania, Hungary, Bulgaria, Albania, East Germany and Yugoslavia (or its successor republics) who entered the United States on or before December 31, 1990 and applied for asylum on or before December 1991.

Under Section 203(a) of the bill, the foregoing Eligible Class Members may pursue and be granted suspension of deportation or cancellation of removal without having their continuous physical presence in the United States terminated as of the date of service of an order to show cause or notice to appear. As Section 203(a)'s amendment to section 309(c)(5)(C)(i) of IIRIRA makes clear, these class members are eligible for this treatment even if they were not in proceedings on or before April 1, 1997.

Also eligible for relief from repatriation under this Act are those who, at the time an Eligible Class Member is granted relief from repatriation under this Act, are either (1) the spouse or child (as defined in Section 101(b)(1) of the Immigration and Nationality Act) of such person; or (2) the unmarried son or daughter of such person, provided that, if the unmarried son or daughter is 21 years of age or older when the parent is granted relief under this Act, the son or daughter must establish that he or she entered the United States on or before October 1, 1990.

Those who otherwise would be eligible for relief but have been convicted of an aggravated felony (as defined in Section 101(a) of the Immigration and Nationality Act) are not eligible for relief. Moreover, those deemed ineligible for relief under this Act may not seek judicial review of this decision.

Section 203(b) of the bill adds a new subsection (f) to the IIRIRA Section 309 transition rules. Under this new provision, Eligible Class Members who were not in exclusion or deportation proceedings as of April 1, 1997 may apply for cancellation of removal—the relief from repatriation replacing ''suspension of deportation,'' which was available under the pre-IIRIRA rules—and adjustment to permanent resident status under a special set of standards, subject to the following limitations:

Generally speaking, Eligible Class Members will be eligible for cancellation of removal and adjustment of status if they can establish that: (1) they have been physically present in the United States for a continuous period of seven years immediately preceding the date of application for relief; (2) they have been of good moral character during that period; and (3) removal would result in ''extreme hardship'' to the person or to a spouse, parent or child who is either a U.S. citizen or lawful permanent resident.

Those who are inadmissible or deportable because of certain offenses—including engaging in certain activities threatening U.S. national security (8 U.S.C. §§212(a)(3), 237(a)(4)); conviction of an aggravated felony at any time after admission (8 U.S.C. §237(a)(2)(A)(iii); or participating in the persecution of others (8 U.S.C. §241(b)(3)(B)(ii))—are ineligible for cancellation of removal and adjustment of status.

Those who are inadmissible or deportable because of certain other offenses—including engaging in specified criminal activity (8 U.S.C. §§212(a)(2), 237(a)(2)); or failure to comply with certain INS rules, including engaging in document fraud (8 U.S.C. §237(a)(3))—are eligible for cancellation of removal and adjustment of status if they can establish that (1) they have been physically present in the United States for a continuous period of ten years immediately following the event that otherwise would constitute a ground for removal; (2) they have been a person of good moral character during that period; and (3) removal would result in exceptional and extremely unusual hardship to the person or to a spouse, parent or child who is either a U.S. citizen or lawful permanent resident.

These standards generally echo the standards for suspension of deportation that had been in effect until IIRIRA. Nothing in these standards is intended to preclude the Attorney General from adapting the procedures under which Eligible Class Members' applications for cancellation or suspension are to be adjudicated in a manner appropriate to the circumstances of the individuals whose cases are before her. These cases have already been drawn out enough as a result of the uncertainties about the applicable standard brought about by the changes to the law made by IIRIRA and uncertainties about the meaning of those changes.

In particular, given the special solicitude Congress is showing toward the Eligible Class Members by enacting this legislation in large measure to see to it that their claims are fairly adjudicated, it would, for example, be entirely consistent with that intent for the Attorney General to direct INS attorneys to consider the special hardships undergone by them and the fragile economic and political conditions in their home countries as relevant to the extreme hardship determination. For this reason, it would also be appropriate for the Attorney General not to challenge applications for relief by Eligible Class Members on hardship grounds if the applicant satisfies the seven-year presence and good moral character requirements. This would be similar to the approach taken by President Bush in the context of the review of asylum applications by Chinese nationals based on China's policy of forced abortion and coerced sterilization. See November 30, 1989 Memorandum of Disapproval signed by President Bush; December 1, 1989 and January 4, 1990 cables from INS Commissioner Gene McNary to all field offices (File CO 243.69–P); Executive Order 12711 (April 11, 1990); 55 Fed. Reg. 13897 (April 13, 1990). More generally, it would be entirely consistent with Congressional intent for the Attorney General to establish procedures that keep to a minimum the burdens an applicant of good

character has to shoulder in order to qualify for relief, both in terms of the paperwork the applicant has to complete and the showings the applicant has to make.

In addition to recognizing the special circumstances to which the ABC class members have been subjected, application of the foregoing approach would greatly reduce the need for protracted analysis of the more subjective aspects of the suspension standard, thereby reducing the administrative burden on the Immigration and Naturalization Service and minimizing further delays in according relief to these individuals. Adoption of such an approach would be entirely consistent with Congress' intentions in adopting this legislation, and with its interest in seeing to it that any future difficulties these people may experience in getting a final resolution of their status here to be kept to a minimum.

Section 203(c) of the bill permits Eligible Class Members previously placed in deportation or removal proceedings who claim eligibility for relief from repatriation under the Act to file a single motion to reopen such proceedings to pursue relief from repatriation; such relief might otherwise have been barred on procedural grounds. The Attorney General must designate a time period not greater than 240 days within which motions to reopen must be filed; the time period must begin within 60 days after the date of enactment of this Act. We note that because a number of the Eligible Class Members arrived in this country with no understanding of the court system and no English, some may have had court proceedings initiated against them and been tried in absentia. Others were minors too young to remember that they had been in immigration court. As a result they may not know that they have final orders of deportation entered against them. We encourage all elements of the Department of Justice and the Immigration and Naturalization Service to work to facilitate making that information available to these individuals, including by affirmatively serving notice on Eligible Class Members subject to such orders. We also note that nothing herein prevents the Attorney General from adopting an approach to the deadlines set out here consistent with application of ordinary tolling principles. Finally, we note that if an Eligible Class Member files a motion to reopen and it is determined that the applicant would qualify for some other form of relief, such as adjustment on the basis of an approved visa with a current priority date, that could be adjudicated far more easily than a suspension application, that relief may be granted instead.

Section 203(d) establishes certain temporary reductions in the number of visas made available in the ''other workers'' and ''diversity'' immigration categories. Beginning in FY 1999, up to 5,000 fewer visas shall be made available on an annual basis in the diversity category. A similar annual reduction shall be made in the ''other workers'' category, but that reduction shall not begin to be made until everyone with an approved petition for a visa in this category as of the date of enactment of the Act has had a visa made available to him or her. The total reduction in the visas issued under these two categories shall equal the total number of individuals described in subclauses I, II, III, and IV of section 309(c)(5)(C) of IIRIRA, as amended by this Act, who are granted cancellation of removal or suspension of deportation under the Act. Each category shall absorb half of the reductions.

Section 204—Limitation on cancellations of removal and suspensions of deportation

IIRIRA established a 4,000-person annual limit on the Attorney General's ability to grant relief from repatriation. Eligible Class Members and designated family members, as well as those who were in deportation proceedings as of April 1, 1997 and who applied for suspension of deportation under INA Section 244(a)(3) (as in effect before IIRIRA), are excepted from this annual limit.

These exceptions to the 4,000-person limit having been made, it is expected that that limit should accommodate the remaining annual flow of successful suspension and cancellation applications. Should that projection prove erroneous, however, nothing in this Act is intended to prevent the Attorney General and those adjudicating suspension or cancellation applications on her behalf from pursuing the course that she has been following to this time of entering provisional grants of suspension or cancellation of deportation but postponing a final decision on the application until a slot becomes available. In no case is it Congress's intent that an otherwise meritorious application should be finally denied, and the applicant deported or removed, because the 4,000-person limit has been reached.

Mr. BIDEN. Mr. President, I am pleased to support this legislation. Included within this appropriations bill is historic legislation, produced on a bipartisan basis in the Foreign Relations Committee, regarding the institutional structure of, and funding for, American foreign policy. This important legislation to reorganize the foreign policy agencies of the U.S. Government and authorize the payment of U.S. arrearages to the United Nations is similar to a bill approved by the Senate last June by a vote of 90–5. Unfortunately, the bill which the Senate overwhelmingly approved has been bogged down in conference with the other body over an issue which has no relevance to this bill.

I am therefore grateful to the Chairman and Ranking Member of the Appropriations Committee, Senator STEVENS and Senator BYRD, for agreeing to include provisions of our legislation in this bill.

I can assure my colleagues that the decision to include the authorization bill in an appropriations bill was not taken lightly. The Chairman of the Foreign Relations Committee, Senator HELMS, and I sought to do so after careful consultation with the Senate leadership. But because two major elements of this bill are so critical to American foreign policy, the Chairman and I believed that we could not afford to delay this bill until next year. I hope my colleagues will agree.

Specifically, the bill addresses two important issues which were the focus of much heated debate in the last Congress. First, the bill provides for the payment of U.S. back dues to the United Nations, contingent on specific reforms by that body. Second, the bill establishes a framework for the reorganization of the U.S. foreign policy agencies which is consistent with the plan announced by the President last April.

Importantly, the bill also contains sufficient funds to restore our diplomatic readiness, which has been severely hampered in recent years by deep reductions in the foreign affairs budget. The funding levels in the bill largely mirror the Fiscal 1998 budget request submitted by the Clinton administration. The wide support in this Congress for providing increased funding for foreign affairs is an important achievement, and reverses a troubling trend of the past few years.

Although the cold war has ended, the need for American leadership in world affairs has not. Our diplomats often represent the front line of our national defense; with the downsizing of the U.S. military presence overseas, the maintenance of a robust and effective diplomatic capability has become all the more important. Despite the reduction in our military presence abroad, the increased importance of ''diplomatic readiness'' to our Nation's security has not been reflected in the Federal budget.

The increase in foreign affairs funding contained in this bill could not have come too soon. According to a report prepared at my request by the Congressional Research Service earlier this year, foreign policy spending is now at its lowest level in 20 years. Stated in fiscal 1998 dollars, the budget in fiscal 1997 was $18.77 billion, which is 25 percent below the annual average of $25 billion over the past two decades, and 30 percent below the level of 10 years ago, near the end of the Reagan administration. In fiscal 1997, such funding was just 1.1 percent of the Federal budget—the lowest level in the past 20 years and about one-third below the historical average.

I should remind my colleagues that the bill is truly a bipartisan product. It began with negotiations involving the Foreign Relations Committee and the Clinton administration early in the year. The Senate subsequently passed that bill overwhelmingly in June, by a vote of 90–5. Since that time, several changes have been made as a result of the conference deliberations with our House counterparts and negotiations with the Clinton administration. These were also undertaken in a spirit of bipartisanship. Because of these changes, I am confident that the bill will be acceptable to the President.

Enactment of this bill will mark another important milestone in reestablishing a bipartisan consensus on foreign policy. Like our predecessors five decades ago, we stand at an important moment in history.

After the Second World War, a bipartisan and farsighted group of senators, led by Chairmen of the Foreign Relations Committee such as Thomas Connally and Arthur Vandenberg, worked with the Truman administration to construct a post-war order. The institutions created at that time—the United Nations, the World Bank, the General Agreement on Tariffs and Trade, the North Atlantic Treaty Organization—are still with us today, but the task of modernizing these institutions to make them relevant to our times is just beginning.

For example, the Clinton administration and the Senate are cooperating on

the first significant expansion of NATO—an expansion to the east which will encompass three former adversaries in Central Europe. The Foreign Relations Committee, under the leadership of Chairman HELMS, has initiated a series of hearings on the proposed enlargement of NATO, setting the stage for what I hope will be successful amendment to the Washington Treaty next spring. Similarly, this legislation now before us calls for significant reforms of the United Nations, an important instrument in American foreign policy which has become crippled both by growing U.S. arrearages and an unwillingness within that body to reform. Enactment of this legislation will be an important step forward in resolving both those problems.

Just as we are trying to revise and reenergize international institutions, we must reorganize our own foreign policy institutions. Two years ago, the Chairman of the Foreign Relations Committee put forward a far-reaching plan to consolidate our major foreign affairs agencies—the Arms Control and Disarmament Agency (ACDA), the United States Information Agency (USIA), and the Agency for International Development—within the Department of State. In the context of an election cycle, it was perhaps inevitable that the Congress and the President would not come to agreement on it.

But continued stalemate was not inevitable. With the onset of a new presidential term and the appointment of a new Secretary of State, a window of opportunity to revisit the issue was opened. The Chairman, to his credit, took advantage of this window by urging the new Secretary of State, Madeleine Albright, to take a second look at the reorganization issue. And, to her credit, the Secretary did so; the result was the reorganization plan announced by the President in April. Under the proposal, two agencies—ACDA and USIA—will be merged into the State Department. The Agency for International Development will remain an independent agency, but it will be placed under the direct authority of the Secretary of State.

The legislation now before the Senate closely reflects the President's proposal. The Arms Control and Disarmament Agency will be merged into the State Department no later than October 1, 1998, and the U.S. Information Agency will be merged no later than October 1, 1999. As with the President's plan, the Agency for International Development will remain a separate agency, but it will be placed under the direct authority of the Secretary of State. And, consistent with the President's proposal to seek improved coordination between the regional bureaus in State and AID, the Secretary of State will have the authority to provide overall coordination of assistance policy.

The bill puts flesh on the bones of the President's plan with regard to international broadcasting. The President's plan was virtually silent on this question, stating only that the ''distinctiveness and editorial integrity of the Voice of America and the broadcasting agencies would be preserved.'' This bill upholds and protects that principle by maintaining the existing government structure established by Congress in 1994 in consolidating all U.S. government-sponsored broadcasting—the Voice of America, Radio and TV Marti, Radio Free Europe/Radio Liberty, Radio Free Asia, and Worldnet TV—under the supervision of one oversight board known as the Broadcasting Board of Governors. Importantly, however, the Board and the broadcasters below them will not be merged into the State Department, where their journalistic integrity would be greatly at risk.

With regard to the United Nations provision, the bill provides $926 million in arrearage payments to the Union Nations over a period of 3 years contingent upon the U.N. achieving specific reforms. This will allow us to pay all U.S. arrears to the U.N. regular budget, all arrears to the peacekeeping budget, nearly all arrears to the U.N. specialized agencies, and all arrears to other international organizations.

It is difficult to exaggerate the significance of this achievement. We are finally in a position to lay to rest the perennial dispute over our unpaid dues that has severely complicated relations between the United Nations and the United States. This bill would give our diplomats the leverage they need to push through meaningful reforms that promise to make the U.N. a more capable institution.

Two important changes were made to the legislation that cleared the Senate last June. First, the bill now allows the crediting of $107 million owed to the U.S. by the U.N. against our arrears. Second, it gives the administration added flexibility by allowing the Secretary of State to waive two conditions. The waiver will not apply to the reduction of assessment rates or the establishment of inspectors-general in the specialized agencies. But report language will make a clear commitment that Congress would, if necessary, consider on an expedited basis a waiver on the condition for a 20 percent assessment rate for the U.N. regular budget.

Of course, not everyone is happy with the agreements the Chairman, Senator HELMS, and I worked out. Some would have preferred to see no conditions at all attached to the payment of our debts. Others are unhappy that the United States is paying any arrears whatsoever.

I think it is fair to say that the Chairman and I approached this issue from two very different points of view. I make no excuses for my support of the United Nations. I believe that the U.N. is an indispensable arrow in our foreign policy quiver. The Chairman, I think it is fair to say, has been skeptical of the role of the United Nations.

But despite our differing outlooks, over the course of nearly 8 months of negotiation, dialogue, and old-fashioned bargaining, we each gave something and got something to return. The Chairman got several important conditions attached to the payment of arrears. Among other items, these include important managerial reforms, assurances that U.S. sovereignty will be protected, and a lowering of our assessment rate from 25 percent to 20 percent of the U.N. regular budget.

For me, it is important that this bill sends a strong signal of bipartisan support for putting our relationship with the United Nations back on track. Restoring our relationship with the United Nations is not a favor to anyone else—it is in our interest.

The United Nations allows us to leverage our resources with other countries in the pursuit of common interests, be it eradicating disease, mitigating hunger, caring for refugees, or addressing common environmental problems. And as the unfolding crisis with Iraq demonstrates, the United Nations can be a useful instrument in our diplomacy. The United States has played a leading role in the United Nations since its founding, and I believe that this legislation will secure that leadership.

While the purists on either side may not be happy with the agreement before us, I believe that we have produced a responsible piece of legislation that warrants the support of our colleagues.

In sum, the bill before the Senate, the Foreign Affairs Reform and Restructuring Act, is a significant achievement. I want to pay tribute to the Chairman for his continued good faith and cooperation throughout this process. I want to thank the President, the National Security Adviser, and the Secretary of State, for their support and assistance during the negotiations. I also want to thank our colleagues in the other body, particularly the ranking member of the International Relations Committee, LEE HAMILTON, who played an important role in pushing for changes to make this proposal more acceptable to the administration.

I believe we have produced a good compromise that a large majority will be able to support. I urge its adoption.

AMENDMENTS TO THE PRISON LITIGATION REFORM ACT

Mr. ABRAHAM. Mr. President, the Commerce-State-Justice portion of this bill contains a few technical and clarifying changes to the Prison Litigation Reform Act enacted last year. The Majority Whip of the House of Representatives and I have been working together on this language, and I believe this statement reflects both of our views.

The Prison Litigation Reform Act was specifically designed to protect the Tenth Amendment powers of the sovereign states, to enforce the Guarantee Clause, and to preserve and strengthen key structural elements of the United States Constitution such as separation of powers, judicial review, and federalism. In passing the Act Congress made clear that it intended that the courts enforcing the Act scrupulously ensure

that these goals be accomplished. In order to avoid any possibility of misinterpretation, we are seeking through the language contained in these amendments to clarify that stated intent.

Subsection (a)(3)(F) establishes that a state or local official, including individual state legislators, or a unit of government, is entitled to intervene as of right in a district or appellate court to challenge prisoner release orders or seek their termination. No separate time limits are included because the sponsors think it clear that a court should implement the intervention provisions in a manner that gives them their full effect by ruling in timely fashion on such motions.

Subsection (b)(3) corrects the confusing use of the word ''or'' to describe the limited circumstances when a court may continue prospective relief in prison conditions litigation. The amendment makes clear that a constitutional violation must be ''current and ongoing''. Both requirements are necessary to ensure that court orders continue only when necessary to remedy a presently occurring constitutional violation. These dual requirements thus ensure that court orders do not remain in place on the basis of a claim that a current prison condition that does not violate prisoners' Federal rights nevertheless requires a court decree to address it because the condition is somehow traceable to a prior policy that did violate Federal rights. Likewise, the clarification insures that prisoners cannot keep intrusive court orders in place based upon the theory that the government officials are ''poised'' to resume allegedly unlawful conduct. Congress does not presume that government officials who have been advised that a particular practice is unlawful will automatically return to an unlawful practice unless a court order remains in effect. If an unlawful practice resumes or if a prisoner is in imminent danger of a constitutional violation, the prisoner has prompt and complete remedies through a new action filed in a state or federal court and preliminary injunctive relief.

Finally, these amendments make some changes to the automatic stay provisions in the Act. Under the Act, courts are supposed to rule promptly on motions to terminate these longstanding decrees. In order to discourage delay on such motions, the Act provided that, if a court did not render a decision on the motion within 30 days, the decree was automatically stayed until the court had rendered a final decision. Unfortunately, many district courts are not ruling promptly, are keeping the decrees in effect, and are then seeking violations that justify doing so.

Courts have also been avoiding the automatic stay by saying that it is impossible to comply with because it sets up an impossible timetable and that it is therefore unconstitutional. The Department of Justice meanwhile has contended that the stay is not really automatic at all, although no court has accepted that view.

The argument that the court is being forced to rule on anything on an unrealistic timetable is incorrect because the automatic stay imposes no requirement that they rule. It only provides that if they do not rule there is no order in effect until they do so. Nevertheless, giving the court the authority to extend the time an additional 60 days should eliminate that basis for challenge. The amendments also clarify that the stay is in fact is automatic by expressly modeling it on the bankruptcy automatic stay, and they state explicitly that any order blocking the automatic stay is appealable, thereby ensuring review of the district court's action. Finally, they make clear that mandamus is available to compel a ruling if a court is simply failing to act on one of these motions.

Mrs. BOXER. Mr. President, I congratulate the chairman and ranking member of the Appropriations Committee for bringing this bill to the Senate. Their leadership will help break the logjam on the remaining 1998 appropriations bills, and I commend them for pushing forward.

While I support most provisions in this multi-title legislation, I must take this opportunity to register my strong disapproval of the provisions in the Foreign Operations title relating to International Family Planning.

The bill provides that for the next two years, it will include the restrictive Mexico City policy, which will prohibit U.S. international family planning assistance from going to any foreign private organization involved in certain abortion-related activities—even though these activities are carried out with non-U.S. funds. This language will cripple the work of many of the private organizations doing the most effective work in family planning and maternal and child health. For example, organizations that seek to advise their governments on how to make abortions safer for women, in countries where abortion is legal, would be restricted from doing so if they receive U.S. money for family planning services. This restriction will only result in more dangerous health conditions for women.

The Mexico City provision does at least include a waiver provision, allowing the President to disregard the policy. However, if he chooses to exercise the waiver, the family planning account will be penalized by being reduced.

Unfortunately, this language is a compromise with those who would terminate international family planning altogether, and thus it is probably the best we can do. I commend the Senator from Vermont, Senator LEAHY, for working so hard to get the best language possible at this time. However, Mr. President, this compromise must go no further. Any movement beyond the language we have included in the Senate bill will, in my view, seriously jeopardizes passsage of the legislation.

Mr. STEVENS. Mr. President, we are waiting for the Senator from Vermont. While I am waiting let me state for the record that the omnibus bill that is here has some additions that were not in the conference reports of the various bills.

We have included the Small Business Administration reauthorization bill, a portion of the State Department authorization bill which deals with reorganization, and with authorization for the United Nations arrearages. We have included the Highway Safety and Transit Contract Authority Extensions, due to the expiration of ISTEA. We have technical corrections to the Department of Defense Authorization Act with regard to land transfer in New Mexico. And we have the agreement that deals with the census provision that was in the State-Justice-Commerce bills that passed the Senate, but it has been altered substantially. I should call attention to that.

Let me ask the Chair, what time now remains on this bill?

The PRESIDING OFFICER. There is 15 minutes for the Senator from West Virginia [Mr. BYRD]; there is 15 minutes for the Senator from Kentucky [Mr. MCCONNELL].

Mr. STEVENS. I am authorized to yield back the time of the Senator from Kentucky and the Senator from West Virginia. I do so.

The PRESIDING OFFICER. There remains 15 minutes for the Senator from Vermont [Mr. LEAHY].

Mr. FORD. Mr. President, may I advise my good friend, the chairman of the Appropriations Committee, that Senator LEAHY has been on the floor. He has been detained just for a few minutes. He is on his way. I don't think he will take his entire 15 minutes, but I would have to hold those minutes for him, if I could.

Mr. STEVENS. Does the Senator from Florida seek to speak?

Mr. GRAHAM. Mr. President, the procedure, which I discussed with the majority leader, was that as soon as we completed action on the District of Columbia appropriations bill, I would be recognized for purposes of offering legislation relative to Haitian immigration. I wonder if it would be an appropriate use of this time, and I so ask unanimous consent, while awaiting Senator LEAHY's arrival, to offer that legislation at this time.

Mr. STEVENS. Mr. President, with the understanding that the Senator from Florida will yield to the Senator from Vermont, in order to finish this bill, when the Senator from Vermont arrives, I suggest the Chair recognize the Senator from Florida.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I ask unanimous consent that the business currently pending before the Senate be set aside temporarily for purposes of introducing

legislation with the understanding that at such time as the Senator from Vermont arrives, the Senator from Vermont will have the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1504 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I compliment the distinguished chairman of the Appropriations Committee, Mr. STEVENS; the distinguished ranking member, Mr. BYRD; and the distinguished chairman of the Subcommittee on Foreign Operations, Mr. MCCONNELL; and all those who worked on it. This has not been an easy time getting this bill through, partly because of holdups in the other body, holdups that tended to disregard, frankly, the democratic process and how we voted here and voted over there. Be that as it may, we have done the best with a difficult situation. I believe this bill should be passed.

INTERNATIONAL FAMILY PLANNING FUNDING

Mr. LEAHY. Mr. President, I want to speak on the issue of funding for international family planning, which is contained in this omnibus bill.

The agreement on the Mexico City policy that was approved by the Appropriations Committee yesterday, is the result of weeks of tortuous negotiations. It would establish the Mexico City policy in statute for 2 years. That is a major concession to the House that is opposed by the administration. It would permit him to waive the Mexico City restrictions.

But there is a penalty if he does. Funding for family planning would be frozen at last year's level, which is the House level and $50 million below the Senate level.

Even with the waiver for the President, I believe that if the Mexico City issue were voted on separately in the Senate it would be defeated. We are including it as part of this larger package in an effort to pass the Foreign Operations conference report.

It is interesting to me that despite the fact that 5 months ago the Appropriations Committee reported and the Senate voted for $435 million for international family planning programs with no Mexico City restrictions, despite the fact that the Senate voted the same way in February, and the same way last year, despite the fact that the House and Senate Foreign Operations conferees would have overwhelmingly supported the Senate position if the House leadership had allowed them to vote on it, Members of the House are already saying that they will not accept it because it permits the President to waive the Mexico City restrictions.

Under their approach, the United States could not fund organizations that support laws to make abortion safer in countries where abortion is legal. And they expect the President, and the Secretary of State who is seen around the world as a champion for women's rights, to accept the Mexico City policy. It completely ignores reality. If they are unwilling to budge we are doomed to failure, because their approach would be vetoed. In fact, I cannot even say that the Mexico City policy with a waiver for the President, as we have done, would not be vetoed.

Mr. President, I was perfectly willing to have a vote in the conference committee, and I am more than willing to vote on this today or next year.

But the House has been unwilling to do that. They prefer to try to thwart the process in other ways.

They are all for democracy in Russia. They are outraged when the Haitian Parliament does not follow the rules. But if they do not have the votes here, they break their commitments, manipulate the parliamentary rules to their advantage, and obstruct the democratic process.

Six years ago we had the votes to defeat the Mexico City policy, which was the policy in effect during the previous administration, just as we have the votes in the Senate today. But we knew our position would be vetoed, and that we could not override a veto.

So rather than bring the Congress to a standstill, we accepted that we could not change the President's policy and we got the Foreign Operations Conference Report passed and signed into law.

Today the tables are turned. The supporters of Mexico City do not have the votes to get it through the Congress, and even if they did they could not override a veto.

But rather than accept that, rather than concede that they cannot win a fair fight, they prevented the conference committee from doing its job, they refused an offer to vote when they knew they would lose, and they tried to force their position through so that we would either have to shut down the government again or swallow their position without an opportunity to amend it.

That is exactly what they did two years ago. The result was that funds for family planning were cut sharply. They tried it again last week, when they sent over the Mexico City policy and tried to jam it through with only Republican names on the Conference Report. They were blocked at the last minute by members of their own party.

Mr. President, the irony of this is that not one dime of our money can be spent on abortion or to lobby for abortion. That has been the law for years.

This issue is about what private organizations, like Johns Hopkins University, like Georgetown University, like the University of North Carolina , like the International Planned Parenthood Federation, do with their own money.

It is about whether we have a policy that says it is okay to give money to foreign governments in countries where abortion is legal, but it is not okay to give money to private organizations that work in those same countries. It is totally illogical and discriminatory.

The compromise agreement contained in this omnibus bill will make no one happy. I do not like it because it puts into law the Mexico City policy, which I strongly oppose even for two years. Others on this side feel the same way. They see that this is a major concession to the pro-Mexico City faction in the House, and they are right. The administration does not like it either.

It also means that funding for family planning remains frozen at last year's level of $385 million. That is a $180 million cut from the 1995 level. I think that is a travesty, when so many people around the world want family planning services and cannot get them. Not abortion. Family planning, so they don't have to resort to abortion.

That is the choice. In Russia, where women had on average 7 abortions in their lifetimes because they had no access to family planning, that number has fallen sharply since we started a family planning program there. It is common sense.

I would like to see twice this amount of money going for family planning, but we have agreed to this level, which is a $50 million cut from the amount that passed the Senate in July, as part of this agreement to try to finish these appropriations bills.

Mr. President, the House can reject this approach. Perhaps they do not believe the President when he says he will veto the Mexico City policy. I do not know how many times he has to say it.

It was not easy to get here. When there is a Republican in the White House, or the votes change in the Senate, I am sure the other side will want to vote because they will be confident of victory. But that is not where we are today.

I hope the House can improve on this approach. I would be overjoyed if they can find a way to keep the Mexico City policy out of the law entirely, without including the kind of harmful restrictions on the disbursement of family planning funds that were adopted last year. If the supporters of the Mexico City policy want it so badly, why not vote on it?

As I have said time and again, I would prefer to handle this by voting on Mexico City next year. We could agree that if it is defeated in the Senate, the funds would be disbursed on a quarterly basis through the 1998 fiscal year. I know that approach has bipartisan support in the House. In fact, the Chairman of the House Appropriations Committee has suggested that approach. Whether it could win a majority I do not know, but I encourage the House to pursue it.

Mrs. BOXER. Will the Senator yield for purposes of a question?

Mr. LEAHY. Of course, I yield to my friend from California.

Mrs. BOXER. I say to Chairman STEVENS and I know the ranking member, Senator BYRD, and to the Senator from Vermont, thank you for working so hard on this international family planning issue. The Senator is so correct when he says that the Senate has spoken, the House has spoken, and suddenly we find ourselves faced with a situation where the funds for family planning on an international scale will be withheld.

I say to my friend, for the RECORD, because I think it is very important and a lot of people are counting on us, can our friend from Vermont assure us that this agreement that he has garnered working with Senator MCCONNELL is, in fact, the best he thinks he can get at this time?

Mr. LEAHY. It is, but it is not what I would want. I would prefer to be far closer to what the Senate has voted on time and time and time again.

I understand the realities of the situation, though, and this is where we are. The irony is that those who are holding up family planning money, claiming they are doing it because of their opposition to abortion, are assuring that there will be more abortions in the countries we send the family planning money to.

The family planning money, in so many of these countries, has provided a strong alternative to abortion, because many countries use abortion as a method of birth control. Our family planning money would cut down abortions. It has been proven.

For the life of me, I cannot understand this topsy-turvy, ''Alice in Wonderland,'' view of cutting family planning money and saying we are trying to stop abortions, because its does nothing of the kind. In fact, when people have access to family planning, the abortions go down.

Mrs. BOXER. Thank you.

Mr. LEAHY. Mr. President, I see the distinguished chairman on the floor. If he does not need further time on this, I understand the Senator from Kentucky has yielded back his time. I, therefore, yield back time on this side.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. As I understand it then, the balance of the time is the time that remains to me, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I want to thank the Senate for its consideration of the desire of the Appropriations Committee to finish this work for this Congress. We had hoped that we would pass 13 separate appropriations bills. That has not been possible. But we have taken the opportunity to put two of the bills that have not been finished on this bill—that managed by Senator FAIRCLOTH and Senator BOXER, with the hope that we could resolve the differences with the House. It will go to the House now as an amendment to the House bill. It is an omnibus appropriations bill now. And the House will work its will on it. I am hopeful that it will decide to send the bill to the President.

In any event, it is my understanding we will soon be presented with a continuing resolution. The continuing resolution in effect now would expire at midnight tonight. The one I expect to be received by the Senate will expire tomorrow night. So we are hopeful that we will be able to resolve the differences between the House and the Senate by tomorrow night with regard to the matters under this bill.

Again, I thank everyone for their consideration of our position. And if there is nothing further to come before the Senate on this bill, I yield back the balance of the time. It is my understanding that would yield back all time on this bill. Is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct. It would yield back all time.

Mr. STEVENS. Is there anything further we need to do to see it to that the time agreement is carried out?

The PRESIDING OFFICER. No. Under the previous order, the pending amendment is agreed to.

The amendment (No. 1621) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 2607), as amended, was passed.

The PRESIDING OFFICER. Under the previous order, the title is amended.

The title was amended so as to read:

An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1998, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair appoints the following conferees.

The Presiding Officer (Mr. ENZI) appointed Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. FAIRCLOTH, Mrs. HUTCHISON, Mr. COCHRAN, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, and Mrs. BOXER conferees on the part of the Senate.

DISTRICT OF COLUMBIA STUDENT OPPORTUNITY SCHOLARSHIP ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 1502.

The assistant legislative clerk read as follows:

A bill (S. 1502) entitled ''District of Columbia Student Opportunity Scholarship Act of 1997.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I strongly oppose the D.C. voucher bill because it is unacceptable and unconstitutional.

We all want to help the children of the District of Columbia get a good education. But this voucher provision is not the way to do it. Public funds should be used for public schools, not to pay for a small number of students to attend private and religious schools.

Earlier this week, the House of Representatives soundly defeated a similar bill. It was Congress' first vote on a free-standing private school voucher bill. It's clear that private school vouchers are not the panacea that voucher proponents would like them to be. Americans do not want vouchers—they want to improve public education, not undermine it.

President Clinton is a strong leader on education. In fact, President Clinton is the education President. He is leading the battle for education reform. The country is proud of his leadership, and our Republican colleagues don't know what to do.

They keep shooting themselves in the foot in their repeated attempts to devise a Republican alternative that will satisfy their right wing hostility to public education and still have the support of the American people. It can't be done. First they tried to abolish the U.S. Department of Education. Then they tried to make deep cuts in funds for public schools. They even shut down the Government when they couldn't get their way. Now they are trying the same trick through the back door, using public funds to subsidize private schools. It won't work, and they shouldn't try.

It is clear that President Clinton will veto the D.C. voucher bill, and he is right to veto it.

The current debate involves schools in the District of Columbia. But the use of Federal funds for private schools is a national issue that Congress has addressed and rejected many times before. And so have many States.

Now, voucher proponents are attempting to make the D.C. public schools a guinea pig for a scheme that voters in D.C. have soundly rejected, and so have voters across the country.

Recent voucher proposals in Washington, Colorado, and California lost by over 2-to-1 margins. In 1981, D.C. voters defeated a voucher initiative by a ratio of 8 to 1, and the concept has never been brought up on the ballot again because it has so little support. Clearly, Congress should not impose on the District of Columbia what the people of D.C. and voters across the country reject.

Representative ELEANOR HOLMES NORTON, and D.C. parents, ministers, and other local leaders have made it clear that they do not want vouchers in the District of Columbia. Members of Congress who can't get to first base with this issue in their own States should not turn around and impose it on the people of the District.

Vouchers would undermine D.C. school reforms already underway. Last year, Congress created a Control Board and all but eliminated the locally elected school board. This bill would create yet another bureaucracy in the form of a federally appointed corporation to run the voucher program. Six of the seven corporation members would be nominated by the Federal Government, and those nominations are controlled by the Republican Congress. Only one representative of D.C. would serve on the corporation. This is precisely the kind of Federal takeover of a local school system that Republican Senators oppose for any other community in America.

Public funds should not go to private schools when District of Columbia public schools have urgent needs of their own. Roof repairs still need to be made; 65 percent of the schools have faulty plumbing; 41 percent of the schools don't have enough power outlets and electrical wiring to accommodate computers and other needed technology; 66 percent of the schools have inadequate heating, ventilation, and air conditioning. Funding these repairs should be our top priority, not conducting a foolish ideological experiment on school vouchers.

Another serious problem with private school vouchers is the exclusionary policies of private schools. Scarce Federal dollars should not go to schools that can exclude children. There is no requirement in the bill that schools receiving vouchers must accept minority students, or students with limited English proficiency, or students with disabilities, or homeless students, or students with discipline problems.

Public schools are open to all children. Public schools don't have the luxury of closing their doors to students who pose difficult challenges.

Voucher proponents argue that vouchers increase choice for parents. But choice for parents is a mirage. Private schools apply different rules than public schools. Unlike public schools, which must accept all children, private schools can decide whether to accept a child or not. The real choice goes to the schools, not the parents. The better the private school, the more selective it is, and the more students are turned away. In Cleveland, nearly half of the public school students who received vouchers could not find a private school that would accept them.

Vouchers will not help the overwhelming majority of children who need help. The current voucher scheme will, at most, enable 2,000 D.C. children to attend private schools, out of the 78,000 children who attend D.C. public schools. This proposal would provide vouchers for 3 percent of D.C. children—and do nothing for the other 97 percent. This is no way to spend federal dollars. We should invest in strategies that help all children, not just a few.

As I have said before, instead of supporting local efforts to revitalize the schools, voucher proponents are attempting to make the D.C. public schools a guinea pig for an ideological experiment in education that voters in D.C. have soundly rejected, and that voters across the country have soundly rejected too. Our Republican colleagues have clearly been unable to generate any significant support for vouchers in their own States. It is a travesty of responsible action for them to attempt to foist their discredited idea on the long-suffering people and long-suffering public schools of the District of Columbia. If vouchers are a bad idea for the public schools in all 50 States, they are a bad idea for the public schools of the District of Columbia too.

Many of us in Congress favor D.C. home rule. Many of us in Congress believe that the people of the District of Columbia should be entitled to have voting representation in the Senate and the House, like the people in every State. It is an embarrassment to our democracy that the most powerful democracy on Earth denies the most basic right of any democracy—the right to vote—to the citizens of the Nation's Capital.

D.C. is not a test tube for misguided Republican ideological experiments on education. Above all, D.C. is not a slave plantation. Republicans in Congress should stop acting like plantation masters, and start treating the people of D.C. with the respect they deserve.

General Becton, local leaders, and D.C. parents are working hard to improve all D.C. public schools for all children. Congress should give them its support, not undermine them.

Another serious objection to this voucher scheme is its unconstitutionality. The vast majority of private schools that charge tuition less than the $3,200 available for a voucher are religious schools. Providing vouchers to religious schools violates the establishment clause of the first amendment of the U.S. Constitution. It's a Federal subsidy for sectarian schools. In many States, voucher schemes would violate the State constitution, too.

Last January, a Wisconsin lower court held that the expansion of the Milwaukee voucher program to include religious schools was unconstitutional and violated the Wisconsin Constitution. The court stated that ''We do not object to the existence of parochial schools or that they attempt to spread their beliefs through their schools. They just cannot do it with State tax dollars.''

Last August, the Wisconsin State Court of Appeals affirmed that decision, holding that the expansion of the State voucher program to include religious schools was unconstitutional under the Wisconsin Constitution.

Last May, an Ohio appellate court reversed a trial court's decision to allow public money to be paid to religious schools. The appeals court held that the voucher program violated the principle of separation of church and state under both the United States Constitution and the Ohio Constitution. The court ruled that the voucher program ''steers aid to sectarian schools, resulting in what amounts to a direct government subsidy.''

Last June, a Vermont State Superior Court held that the use of vouchers to pay tuition at private religious schools violates both the U.S. Constitution and the Vermont Constitution.

As these cases demonstrate, the courts are clear that vouchers for religious schools are unconstitutional, and Congress should abide by their rulings.

Last month, in a keynote address to the Conference of the Council of Great City Schools, Coretta Scott King said,

> I don't have a lot of sympathy with those who would further diminish the resources available to urban public schools with a voucher system . . . The debate over vouchers takes the focus away from where it really needs to be—on how we can increase funding and resources, so that every public school can provide the best possible education for all students.

Coretta King is right. Instead of subsidizing private schools, we need to support ways to improve and reform the public schools—not in a few schools, but in all schools; not for a few students, but for all students.

Subsidies for a few children at the expense of the many divides communities. The federal government should help bring communities together, not divide them. We should make investments that help all children in all neighborhood schools to get a good, safe education. I oppose the D.C. voucher bill as unwise, unacceptable, and unconstitutional.

Private school vouchers are not the answer to the problems facing the nation's schools. It is a mistake and a misuse of tax dollars to send children to private schools at public expense.

DC SCHOOL VOUCHER BILL

Ms. MOSELEY-BRAUN. Mr. President, I strongly appose S. 1502, a bill to take funds away from public school children in order to subsidize private schools.

Supporters of this legislation claim that the $7 million they propose to spend on private schools does not divert funds from public school children. The truth, however, is that in the zero-sum budget, any funds spent on vouchers must be drawn from other education funds. That means less resources for public school children.

Seven million dollars could make a real difference in the DC public schools. We could fully fund after-school programs at every DC school.

We could buy 368 new boilers for the DC schools. We could rewire the 65 schools that don't have electrical wiring to accommodate computers and multimedia equipment. We could upgrade the plumbing in the 102 schools with substandard facilities. With just $1 million, we could buy 66,000 new hardcover books for DC's school libraries. There are real improvements we could make to the DC public school system with $7 million. Instead, this bill proposes to siphon those funds away from the public school children.

Some of my colleagues suggest that, were it not for management problems, the DC schools would not be in the condition they are now in. How a diversion of $7 million from the public schools to private schools will solve that problem is beyond me. I have a better solution: good management. Paul Vallas has turned around the Chicago schools. It would not surprise me if some day the Chicago Public Schools were competing on the same level as the public schools that comprise the First in the World Consortium in north suburban Chicago. Students in those schools compete with students at the finest schools in the world. The DC schools have new management, and I have every confidence that General Becton will be able to do for the DC schools what Paul Vallas is doing for the Chicago schools.

Some of my colleagues suggest that school vouchers will help improve the public schools by increasing competition—by creating, in effect, a marketplace for education. There is a problem with that proposal. By definition, markets have winners and losers, and our country cannot afford any losers in a game of educational roulette.

Supporters of school vouchers state that this is not like a game of roulette, that research proves that voucher programs have positive effects on student achievement. The facts, however, do not speak so clearly to this issue. The data is mixed. Some studies show improvement. Some studies show declining achievement. Some studies show no difference at all between the students in public schools and those placed in private schools. We do know that programs in other countries have not succeeded. In France, Britain, the Netherlands, and Chile, voucher programs actually widened the achievement gap, instead of narrowing it.

That is the real problem. Vouchers do not fix public schools. Vouchers do not solve problems. Vouchers raise false hopes in parents who desire better schools for their children. Vouchers are not answers to the real problems that we must address in our public schools.

Mr. President, for the last three years, proponents of this bill in the Senate have failed to pass this bad idea. Today, however, in order to expedite the business of the Senate, I, and my colleagues who oppose this bill, are willing to the let the Senate pass this measure, because President Clinton has wisely pledged to veto it. Our willingness to let this legislation pass the Senate does not represent any weakening of our belief that it is fundamentally flawed, that it represents an abandonment of public education, and a pessimistic capitulation to a winnable challenge—the improvement of our public schools so they may serve all our children into the 21st century.

We have agreed to let this legislation clear the Senate, in these last hours of the first session of the 105th Congress, as part of a much larger arrangement to consider a number of important issues, including: measures to fund the activities of the State Department, the Commerce Department, and the Justice Department; measures to fund the District of Columbia and our foreign aid operations; a stop-gap measure to fund our highway and mass transit programs; and legislation granting the President the so-called ''fast track'' authority to negotiate trade agreements. It is in this context, and with the advance knowledge that the President will veto this DC voucher bill, that we have agreed to let the Senate proceed with this bill.

Mr. President, I hope that next year we will focus on real solutions to the problems facing our public schools. According to the U.S. General Accounting Office, 14 million children attend schools that are literally crumbling down around them, and we have let our public schools fall $112 billion into physical disrepair. Our children cannot learn the skills they need to keep us competitive in this kind of environment. I know that we can do better for our children. We can fix our schools, and I look forward to working with my colleagues next year on legislation to form a partnership with state and local governments to rebuild and modernize our crumbling schools. I look forward to working with my colleagues next year to address the real needs of our nation's 52 million public school children.

Mr. HOLLINGS. Mr. President, today we are passing important legislation which I strongly oppose by voice vote. The normal Senate procedure would be to vote on such an important bill, and I do not like to see Senators avoid a recorded vote on a bill with such dire implications for public education. However, the President has committed to veto the full bill, and I am confident from repeated past votes that if we did not have this commitment, the Senate would block the bill. Also, without this commitment, I would be glad not only to force a vote, but also to discuss the bill at length.

In fact, there is a healthy sign that even supporters of the ill-advised idea of starting a taxpayer-funded private school voucher program are re-thinking their support. Five days ago, the House defeated a private school voucher plan. Thirty-five House Republicans voted against creation of a voucher program on the basis that the legislation did not include basic civil rights protections that also are absent in the bill before us.

The United States Catholic Conference opposed that bill. I quote here from their letter:

> An additional reason why the USCC is unable to support H.R. 2746 is the ''Not School Aid'' provision in the new section 6405(a). . . . Section 6405(a) can readily be construed to negate the application of longstanding civil rights statutes, in particular, Title VI of the Civil Rights Act of 1964, Title X of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973, that would normally apply to a scholarship program.

In other words, by saying that the federal aid going to private schools under a voucher program is ''not school aid'' the bill proponents excuse them from full compliance with federal protections that currently apply to public schools.

Mr. President, that is not just my interpretation or that of the Catholic Conference. That is the reading of proponents of the bill.

Specifically, Mr. Clint Bolick, who has a group named ''Institute for Justice,'' has been agitating to start taxpayer funding for private school tuitions. Here is what Mr. Bolick said about the Catholic Conference and civil rights in a memo that leaked out last month:

> Dick Komer and I met with representatives of the Catholic Conference, who urged that the bill contain the full panoply of federal civil rights regulations, including Title IX (gender) and disability provisions. We argued strongly against those regulations. We are pleased to report that the final bill contains only a general anti-discrimination requirement and expressly provides that schools are not ''recipients of federal funds.''

So Mr. Bolick ''argued strongly'' against civil rights for girls and disabled children, but he is pleased to report that schools receiving vouchers would not be ''recipients of federal funds.''

This is absurd. The federal government today spends about $12 billion on elementary and secondary education. That is about $250 per child in a public school. But the proponents of this bill want from the outset to give private schools $3,200 per child in federal funds. If we do that, just three voucher children would provide a private school with more federal assistance than we provide to a whole public school classroom. If that is ''Not School Aid,'' I don't know what is. There are a lot of public school classrooms that would like to have $3,200 per child in federal assistance, and they would not be crowing about how basic civil rights protections were rolled back.

I say this to criticize this proposed legislation, not the private schools. I believe that we have a duty as public servants to fund the public schools, and we have a duty to the private schools to leave them alone. I support private schools. About nine out of ten are religious, and I particularly support their freedom to stay that way without federal intervention. Make no mistake. If we go down this road of putting $3,200 per child of federal taxpayers' money

into private school classrooms, federal regulation will follow and that will be a tragedy.

This is not conjecture, the Bush Administration studied it. In a report titled ''Choice of Schools in Six Nations,'' here is what they found:

For those who believe strongly in religious schooling and fear that government influence will come with public funding, reason exists for their concern. Catholic or Protestant schools in each of the nations studied have increasingly been assimilated to the assumptions and guiding values of public schooling. This process does not even seem to be the result of deliberate efforts . . . but rather of the difficulty for a private school playing by public rules, to maintain its distance from the common assumptions and habits of the predominant system.

World Bank economist Estelle James did a similar survey and found that ''. . . heavy controls invariably accompany subsidies, particularly over teacher salaries and qualifications, price, and other entrance criteria.'' She looked particularly closely at Australia, and found ''. . . increasing regulation and centralization of decisions and the loss of private school autonomy . . .''

I raise all of these points to appeal to my colleagues on the other side of the aisle. I do not talk to hear myself talk, but to urge serious consideration. We have House colleagues reconsidering. We have the Catholic Conference urging civil rights protections. We have Bush Administration and World Bank studies indicating heavy regulation. We have a proposal that clearly disadvantages public schools on the matter of federal funding. Who will really be happy if we pass this?

Mr. President, we must finally remember our duty to public education. I go back to Horace Mann, the great champion of public schools. He said that

The idea of an educational system that was at once both universal, free and available to all the people, rich and poor alike, was revolutionary. This is the great thing about America. No other nation ever had such an institution. . . . The free public school system . . . has been in large measure the secret of America's success.

The proposal before us erodes public education. It disadvantages public schools in federal funding and under federal regulation. Instead, it offers more funds to private schools which should exist as an independent alternative, but which are not ''universal, free'' or ''available to all the people.'' I urge my colleagues who have supported this private voucher idea to reconsider over the holidays, and I thank the President in advance for his veto.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1502

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

SECTION 1. SHORT TITLE; FINDINGS; PRECEDENTS.

(a) SHORT TITLE.—This Act may be cited as the ''District of Columbia Student Opportunity Scholarship Act of 1997''.

(b) FINDINGS.—Congress makes the following findings:

(1) Public education in the District of Columbia is in a crisis, as evidenced by the following:

(A) The District of Columbia schools have the lowest average of any school system in the Nation on the National Assessment of Education Progress.

(B) 72 percent of fourth graders in the District of Columbia tested below basic proficiency on the National Assessment of Education Progress in 1994.

(C) Since 1991, there has been a net decline in the reading skills of District of Columbia students as measured in scores on the standardized Comprehensive Test of Basic Skills.

(D) At least 40 percent of District of Columbia students drop out of or leave the school system before graduation.

(E) The National Education Goals Panel reported in 1996 that both students and teachers in District of Columbia schools are subjected to levels of violence that are twice the national average.

(F) Nearly two-thirds of District of Columbia teachers reported that violent student behavior is a serious impediment to teaching.

(G) Many of the District of Columbia's 152 schools are in a state of terrible disrepair, including leaking roofs, bitterly cold classrooms, and numerous fire code violations.

(2) Significant improvements in the education of educationally deprived children in the District of Columbia can be accomplished by—

(A) increasing educational opportunities for the children by expanding the range of educational choices that best meet the needs of the children;

(B) fostering diversity and competition among school programs for the children;

(C) providing the families of the children more of the educational choices already available to affluent families; and

(D) enhancing the overall quality of education in the District of Columbia by increasing parental involvement in the direction of the education of the children.

(3) The 350 private schools in the District of Columbia and the surrounding area offer a more safe and stable learning environment than many of the public schools.

(4) Costs are often much lower in private schools than corresponding costs in public schools.

(5) Not all children are alike and therefore there is no one school or program that fits the needs of all children.

(6) The formation of sound values and moral character is crucial to helping young people escape from lives of poverty, family break-up, drug abuse, crime, and school failure.

(7) In addition to offering knowledge and skills, education should contribute positively to the formation of the internal norms and values which are vital to a child's success in life and to the well-being of society.

(8) Schools should help to provide young people with a sound moral foundation which is consistent with the values of their parents. To find such a school, parents need a full range of choice to determine where their children can best be educated.

(c) PRECEDENTS.—The United States Supreme Court has determined that programs giving parents choice and increased input in their children's education, including the choice of a religious education, do not violate the Constitution. The Supreme Court has held that as long as the beneficiary decides where education funds will be spent on such individual's behalf, public funds can be used for education in a religious institution because the public entity has neither advanced nor hindered a particular religion and therefore has not violated the establishment clause of the first amendment to the Constitution. Supreme Court precedents include—

(1) Wisconsin v. Yoder, 406 U.S. 205 (1972); Pierce v. Society of Sisters, 268 U.S. 510 (1925); and Meyer v. Nebraska, 262 U.S. 390 (1923) which held that parents have the primary role in and are the primary decision makers in all areas regarding the education and upbringing of their children;

(2) Mueller v. Allen, 463 U.S. 388 (1983) which declared a Minnesota tax deduction program that provided State income tax benefits for educational expenditures by parents, including tuition in religiously affiliated schools, does not violate the Constitution;

(3) Witters v. Department of Services for the Blind, 474 U.S. 481 (1986) in which the Supreme Court ruled unanimously that public funds for the vocational training of the blind could be used at a Bible college for ministry training; and

(4) Zobrest v. Catalina Foothills School District, 509 U.S. 1 (1993) which held that a deaf child could receive an interpreter, paid for by the public, in a private religiously affiliated school under the Individual with Disabilities Education Act (20 U.S.C. 1400 et seq.). The case held that providing an interpreter in a religiously affiliated school did not violate the establishment clause of the first amendment of the Constitution.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term ''Board'' means the Board of Directors of the Corporation established under section 3(b)(1);

(2) the term ''Corporation'' means the District of Columbia Scholarship Corporation established under section 3(a);

(3) the term ''eligible institution''—

(A) in the case of an eligible institution serving a student who receives a tuition scholarship under section 4(c)(1), means a public, private, or independent elementary or secondary school; and

(B) in the case of an eligible institution serving a student who receives an enhanced achievement scholarship under section 4(c)(2), means an elementary or secondary school, or an entity that provides services to a student enrolled in an elementary or secondary school to enhance such student's achievement through instruction described in section 4(c)(2);

(4) the term ''parent'' includes a legal guardian or other person standing in loco parentis; and

(5) the term ''poverty line'' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 3. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—There is authorized to be established a private, nonprofit corporation, to be known as the ''District of Columbia Scholarship Corporation'', which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

(2) DUTIES.—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the scholarship program in accordance with this title, and to determine student and school eligibility for participation in such program.

(3) CONSULTATION.—The Corporation shall exercise its authority—

(A) in a manner consistent with maximizing educational opportunities for the maximum number of interested families; and

(B) in consultation with the District of Columbia Board of Education or entity exercising administrative jurisdiction over the District of Columbia Public Schools, the Superintendent of the District of Columbia Public Schools, and other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this Act, and, to the extent consistent with this Act, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(6) FUND.—There is established in the Treasury a fund that shall be known as the District of Columbia Scholarship Fund, to be administered by the Secretary of the Treasury.

(7) DISBURSEMENT.—The Secretary of the Treasury shall make available and disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year, whichever occurs later, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year in which such disbursement is made.

(8) AVAILABILITY.—Funds authorized to be appropriated under this Act shall remain available until expended.

(9) USES.—Funds authorized to be appropriated under this Act shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(10) AUTHORIZATION.—

(A) IN GENERAL.—There are authorized to be appropriated to the District of Columbia Scholarship Fund—

(i) $7,000,000 for fiscal year 1998;

(ii) $8,000,000 for fiscal year 1999; and

(iii) $10,000,000 for each of fiscal years 2000 through 2002.

(B) LIMITATION.—Not more than 7.5 percent of the amount appropriated to carry out this Act for any fiscal year may be used by the Corporation for salaries and administrative costs.

(b) ORGANIZATION AND MANAGEMENT; BOARD OF DIRECTORS.—

(1) BOARD OF DIRECTORS; MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors (referred to in this title as the ''Board''), comprised of 7 members with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint 3 of the members from a list of 9 individuals nominated by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 3 members from a list of 9 individuals nominated by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate.

(D) DEADLINE.—The Speaker of the House of Representatives and Majority Leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member of the Board not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 member of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence together with the appointee of the Mayor, shall serve as an interim Board with all the powers and other duties of the Board described in this title, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of the Board.

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members of the Board to be the Chairperson of the Board.

(4) RESIDENCY.—All members appointed to the Board shall be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia Government when appointed to or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(7) GENERAL TERM.—The term of office of each member of the Board shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect the Board's power, but shall be filled in a manner consistent with this title.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this Act, shall be provided a stipend. Such stipend shall be at the rate of $150 per day for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(c) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation, not to exceed level EG–16 of the Educational Service of the District of Columbia, to be fixed by the Board.

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay greater than the annual rate of pay of the Executive Director.

(4) SERVICE.—All officers and employees of the Corporation shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out this title.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The financial statements of the Corporation shall be—

(A) maintained in accordance with generally accepted accounting principles for nonprofit corporations; and

(B) audited annually by independent certified public accountants.

(2) REPORT.—The report for each such audit shall be included in the annual report to Congress required by section 11(c).

(f) ADMINISTRATIVE RESPONSIBILITIES.—

(1) SCHOLARSHIP APPLICATION SCHEDULE AND PROCEDURES.—Not later than 30 days after the initial Board is appointed and the first Executive Director of the Corporation is hired under this Act, the Corporation shall implement a schedule and procedures for processing applications for, and awarding, student scholarships under this Act. The schedule and procedures shall include establishing a list of certified eligible institutions, distributing scholarship information to parents and the general public (including through a newspaper of general circulation), and establishing deadlines for steps in the scholarship application and award process.

(2) INSTITUTIONAL APPLICATIONS AND ELIGIBILITY.—

(A) IN GENERAL.—An eligible institution that desires to participate in the scholarship program under this Act shall file an application with the Corporation for certification for participation in the scholarship program under this Act that shall—

(i) demonstrate that the eligible institution has operated with not less than 25 students during the 3 years preceding the year for which the determination is made unless the eligible institution is applying for certification as a new eligible institution under subparagraph (C);

(ii) contain an assurance that the eligible institution will comply with all applicable requirements of this Act;

(iii) contain an annual statement of the eligible institution's budget; and

(iv) describe the eligible institution's proposed program, including personnel qualifications and fees.

(B) CERTIFICATION.—

(i) IN GENERAL.—Except as provided in subparagraph (C), not later than 60 days after receipt of an application in accordance with subparagraph (A), the Corporation shall certify an eligible institution to participate in the scholarship program under this Act.

(ii) CONTINUATION.—An eligible institution's certification to participate in the scholarship program shall continue unless such eligible institution's certification is revoked in accordance with subparagraph (D).

(C) NEW ELIGIBLE INSTITUTION.—

(i) IN GENERAL.—An eligible institution that did not operate with at least 25 students in the 3 years preceding the year for which the determination is made may apply for a 1-year provisional certification to participate in the scholarship program under this Act for a single year by providing to the Corporation not later than July 1 of the year preceding the year for which the determination is made—

(I) a list of the eligible institution's board of directors;

(II) letters of support from not less than 10 members of the community served by such eligible institution;

(III) a business plan;

(IV) an intended course of study;

(V) assurances that the eligible institution will begin operations with not less than 25 students;

(VI) assurances that the eligible institution will comply with all applicable requirements of this Act; and

(VII) a statement that satisfies the requirements of clauses (ii) and (iv) of subparagraph (A).

(ii) CERTIFICATION.—Not later than 60 days after the date of receipt of an application described in clause (i), the Corporation shall certify in writing the eligible institution's provisional certification to participate in the scholarship program under this Act unless the Corporation determines that good cause exists to deny certification.

(iii) RENEWAL OF PROVISIONAL CERTIFICATION.—After receipt of an application under clause (i) from an eligible institution that includes a statement of the eligible institution's budget completed not earlier than 12 months before the date such application is filed, the Corporation shall renew an eligible institution's provisional certification for the second and third years of the school's participation in the scholarship program under this Act unless the Corporation finds—

(I) good cause to deny the renewal, including a finding of a pattern of violation of requirements described in paragraph (3)(A); or

(II) consistent failure of 25 percent or more of the students receiving scholarships under this Act and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(iv) DENIAL OF CERTIFICATION.—If provisional certification or renewal of provisional certification under this subsection is denied, then the Corporation shall provide a written explanation to the eligible institution of the reasons for such denial.

(D) REVOCATION OF ELIGIBILITY.—

(i) IN GENERAL.—The Corporation, after notice and hearing, may revoke an eligible institution's certification to participate in the scholarship program under this Act for a year succeeding the year for which the determination is made for—

(I) good cause, including a finding of a pattern of violation of program requirements described in paragraph (3)(A); or

(II) consistent failure of 25 percent or more of the students receiving scholarships under this Act and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(ii) EXPLANATION.—If the certification of an eligible institution is revoked, the Corporation shall provide a written explanation of the Corporation's decision to such eligible institution and require a pro rata refund of the proceeds of the scholarship funds received under this Act.

(3) PARTICIPATION REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

(A) REQUIREMENTS.—Each eligible institution participating in the scholarship program under this Act shall—

(i) provide to the Corporation not later than June 30 of each year the most recent annual statement of the eligible institution's budget; and

(ii) charge a student that receives a scholarship under this Act not more than the cost of tuition and mandatory fees for, and transportation to attend, such eligible institution as other students who are residents of the District of Columbia and enrolled in such eligible institution.

(B) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subparagraph (A), but neither the Corporation nor any governmental entity may impose requirements upon an eligible institution as a condition for participation in the scholarship program under this Act, other than requirements established under this Act.

SEC. 4. SCHOLARSHIPS AUTHORIZED.

(a) ELIGIBLE STUDENTS.—The Corporation is authorized to award tuition scholarships under subsection (c)(1) and enhanced achievement scholarships under subsection (c)(2) to students in kindergarten through grade 12—

(1) who are residents of the District of Columbia; and

(2) whose family income does not exceed 185 percent of the poverty line.

(b) SCHOLARSHIP PRIORITY.—

(1) FIRST.—The Corporation first shall award scholarships to students described in subsection (a) who—

(A) are enrolled in a District of Columbia public school or preparing to enter a District of Columbia public kindergarten, except that this subparagraph shall apply only for academic years 1997–1998, 1998–1999, and 1999–2000; or

(B) have received a scholarship from the Corporation for the academic year preceding the academic year for which the scholarship is awarded.

(2) SECOND.—If funds remain for a fiscal year for awarding scholarships after awarding scholarships under paragraph (1), the Corporation shall award scholarships to students who are described in subsection (a), not described in paragraph (1), and otherwise eligible for a scholarship under this Act.

(3) LOTTERY SELECTION.—The Corporation shall award scholarships to students under this subsection using a lottery selection process whenever the amount made available to carry out this Act for a fiscal year is insufficient to award a scholarship to each student who is eligible to receive a scholarship under this Act for the fiscal year.

(c) USE OF SCHOLARSHIP.—

(1) TUITION SCHOLARSHIPS.—A tuition scholarship may be used for the payment of the cost of the tuition and mandatory fees for, and transportation to attend, an eligible institution located within the geographic boundaries of the District of Columbia; Montgomery County, Maryland; Prince Georges County, Maryland; Arlington County, Virginia; Alexandria City, Virginia; Falls Church City, Virginia; Fairfax City, Virginia; or Fairfax County, Virginia.

(2) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may be used only for the payment of the costs of tuition and mandatory fees for, and transportation to attend, a program of instruction provided by an eligible institution which enhances student achievement of the core curriculum and is operated outside of regular school hours to supplement the regular school program.

(e) NOT SCHOOL AID.—A scholarship under this Act shall be considered assistance to the student and shall not be considered assistance to an eligible institution.

SEC. 5. SCHOLARSHIP AWARDS.

(a) AWARDS.—From the funds made available under this Act, the Corporation shall award a scholarship to a student and make scholarship payments in accordance with section 6.

(b) NOTIFICATION.—Each eligible institution that receives the proceeds of a scholarship payment under subsection (a) shall notify the Corporation not later than 10 days after—

(1) the date that a student receiving a scholarship under this Act is enrolled, of the name, address, and grade level of such student;

(2) the date of the withdrawal or expulsion of any student receiving a scholarship under this Act, of the withdrawal or expulsion; and

(3) the date that a student receiving a scholarship under this Act is refused admission, of the reasons for such a refusal.

(c) TUITION SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, a tuition scholarship may not exceed the lesser of—

(A) the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $3,200 for fiscal year 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

(2) ABOVE POVERTY LINE.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, a tuition scholarship may not exceed the lesser of—

(A) 75 percent of the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $2,400 for fiscal year 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

(d) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may not exceed the lesser of—

(1) the costs of tuition and mandatory fees for, and transportation to attend, a program of instruction at an eligible institution; or

(2) $500 for 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

SEC. 6. SCHOLARSHIP PAYMENTS.

(a) PAYMENTS.—The Corporation shall make scholarship payments to the parent of a student awarded a scholarship under this Act.

(b) DISTRIBUTION OF SCHOLARSHIP FUNDS.—Scholarship funds may be distributed by check, or another form of disbursement, issued by the Corporation and made payable directly to a parent of a student awarded a scholarship under this Act. The parent may use the scholarship funds only for payment of tuition, mandatory fees, and transportation costs as described in this Act.

(c) PRO RATA AMOUNTS FOR STUDENT WITHDRAWAL.—If a student receiving a scholarship under this Act withdraws or is expelled from an eligible institution after the proceeds of a scholarship is paid to the eligible institution, then the eligible institution shall refund to the Corporation on a pro rata basis the proportion of any such proceeds received for the remaining days of the school

year. Such refund shall occur not later than 30 days after the date of the withdrawal or expulsion of the student.

SEC. 7. CIVIL RIGHTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this Act shall not discriminate on the basis of race, color, national origin, or sex in carrying out the provisions of this Act.

(b) APPLICABILITY AND CONSTRUCTION WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX.—

(1) APPLICABILITY.—With respect to discrimination on the basis of sex, subsection (a) shall not apply to an eligible institution that is controlled by a religious organization if the application of subsection (a) is inconsistent with the religious tenets of the eligible institution.

(2) CONSTRUCTION.—With respect to discrimination on the basis of sex, nothing in subsection (a) shall be construed to require any person, or public or private entity to provide or pay, or to prohibit any such person or entity from providing or paying, for any benefit or service, including the use of facilities, related to an abortion. Nothing in the preceding sentence shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

(3) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.—With respect to discrimination on the basis of sex, nothing in subsection (a) shall be construed to prevent a parent from choosing, or an eligible institution from offering, a single-sex school, class, or activity.

(c) REVOCATION.—Notwithstanding section 3(f)(2)(D), if the Corporation determines that an eligible institution participating in the scholarship program under this Act is in violation of subsection (a), then the Corporation shall revoke such eligible institution's certification to participate in the program.

SEC. 8. CHILDREN WITH DISABILITIES.

Nothing in this Act shall affect the rights of students, or the obligations of the District of Columbia public schools, under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

SEC. 9. RULE OF CONSTRUCTION.

(a) IN GENERAL.—Nothing in this Act shall be construed to prevent any eligible institution which is operated by, supervised by, controlled by, or connected to, a religious organization from employing, admitting, or giving preference to, persons of the same religion to the extent determined by such institution to promote the religious purpose for which the eligible institution is established or maintained.

(b) SECTARIAN PURPOSES.—Nothing in this Act shall be construed to prohibit the use of funds made available under this Act for sectarian educational purposes, or to require an eligible institution to remove religious art, icons, scripture, or other symbols.

SEC. 10. REPORTING REQUIREMENTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this Act shall report to the Corporation not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Student achievement in the eligible institution's programs.

(2) Grade advancement for scholarship students.

(3) Disciplinary actions taken with respect to scholarship students.

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

(5) Types and amounts of parental involvement required for all families of scholarship students.

(6) Student attendance for scholarship and nonscholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules at the eligible institution.

(8) Number of scholarship students enrolled.

(9) Such other information as may be required by the Corporation for program appraisal.

(b) CONFIDENTIALITY.—No personal identifiers may be used in such report, except that the Corporation may request such personal identifiers solely for the purpose of verification.

SEC. 11. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall enter into a contract, with an evaluating agency that has demonstrated experience in conducting evaluations, for an independent evaluation of the scholarship program under this Act, including—

(1) a comparison of test scores between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(2) a comparison of graduation rates between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(3) the satisfaction of parents of scholarship students with the scholarship program; and

(4) the impact of the scholarship program on the District of Columbia public schools, including changes in the public school enrollment, and any improvement in the academic performance of the public schools.

(b) PUBLIC REVIEW OF DATA.—All data gathered in the course of the study described in subsection (a) shall be made available to the public upon request except that no personal identifiers shall be made public.

(c) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate committees of Congress. Such report shall include a review of how scholarship funds were expended, including the initial academic achievement levels of students who have participated in the scholarship program.

(d) AUTHORIZATION.—There are authorized to be appropriated for the study described in subsection (a), $250,000, which shall remain available until expended.

SEC. 12. JUDICIAL REVIEW.

(a) JURISDICTION.—

(1) IN GENERAL.—The United States District Court for the District of Columbia shall have jurisdiction in any action challenging the constitutionality of the scholarship program under this Act and shall provide expedited review.

(2) STANDING.—The parent of any student eligible to receive a scholarship under this Act shall have standing in an action challenging the constitutionality of the scholarship program under this Act.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

SEC. 13. EFFECTIVE DATE.

This Act shall be effective for each of the fiscal years 1998 through 2002.

SEC. 14. APPROPRIATION OF INITIAL FEDERAL CONTRIBUTION TO FUND.

There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, $7,000,000 for the District of Columbia Scholarship Fund.

Mr. STEVENS. Mr. President, is it proper at this time to move to reconsider the action taken by the Senate under this time agreement?

The PRESIDING OFFICER. Yes.

Mr. STEVENS. I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent the call of the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I know there may be some agenda items that are necessary for other Members of the Senate to complete tonight. If so, I am happy to yield at an appropriate time.

BILL LANN LEE NOMINATION

Mr. SESSIONS. Mr. President, I rise to talk about the Bill Lann Lee nomination as Assistant Attorney General for Civil Rights. He is a good man, a lawyer of skill and experience. He is the son of an immigrant who has worked hard and done very well professionally and financially.

However, his nomination is in the Senate Judiciary Committee. Many of his positions are outside the mainstream of current legal thought, and I believe we need to reject that nomination. Regretfully, I intend to vote no when it comes up before the Judiciary Committee.

There has been some discussion and comments made that there have been scurrilous attacks against him. I just want to say that is not so. Certainly it is not so from the Senators who are members of the Judiciary Committee who have considered this nomination. Senator HATCH, the chairman of the Judiciary Committee, came to this body earlier this week. He made a very long, professional address, delineating his concerns about this nomination and why he had decided to vote no. He talked about legal issues, professional issues, positions of importance, and that is the basis of our concern—not personal attacks.

This position is a serious position. Mr. Lee has been treated respectfully. I have been at every hearing he has attended, and I have been at every hearing in which his nomination has been discussed. It has been discussed on a high level, according to the highest professional standards of this Senate. That is the way it should be. But his

position is an important position, so it is necessary that we ask important fundamental questions and that we get answers from him, and then once we get those answers, it is our responsibility, under the advice and consent responsibility of the Senate, to make a judgment as to how we should vote.

I want to say we must protect the civil rights of all Americans. We cannot, however, utilize civil rights laws as a tool to favor one group over another. We need to know what Mr. Lee thinks on what the issues are facing America. He is an advocate. We know that. I respect that. But we need to go beyond that. How deep is his advocacy? Can he take it away and can he be an objective and effective administrator of the civil rights policies of the U.S. Government, or does he maintain some of his advocacy views that are outside the mainstream of American legal thought?

That is why, I submit, he has been asked a number of questions and why we have taken this seriously.

This position has been vacant for 18 months. The President just recently submitted his nomination. Our committee has moved promptly to consider that nomination, and we brought it up last week for a vote. His supporters, perhaps fearing they did not have the votes, asked it be put over again for another week. I expect we will take that up Thursday of next week. Some have suggested that if there are not enough votes in the committee to confirm this nomination, that we ought to, regardless of that, send the nomination to the floor.

As a new member of the committee, I thought we had an interesting discussion about that. The Members who felt they were on the losing side raised quite a number of questions and earnestly argued for their position. Of course, this is a decision that we can make, and we can make any decision we choose, and they cited a number of historical examples why we should do that. Senator HATCH has been a member of the committee for a number of years and delineated the history. There has been no Executive nominee—and this nominee would be part of President Clinton's administration—reported out of that committee other than with a favorable recommendation since 1953.

In fact, a number of Democratic Senators on the committee were the very ones who just a few years ago voted not to send the nomination of Bill Lucas, an African-American who had been nominated by President Reagan to be civil rights chief—they voted not to send his nomination out. And they did the same with William Bradford Reynolds, another nominee of President Reagan, who was not sent forward, on their objection.

Therefore, they took the position—and I think one that is quite proper—if they so choose and if our committee so chooses, that the committee makes a recommendation as to whether or not a nomination should go forward.

Let me say there have been suggestions that scurrilous complaints and attacks have been made. I hate to hear that, but I say they have not come from our side. I say there have been some unwise and intemperate remarks by those who are supporting the Lee nomination in this U.S. Senate. They have, in effect, said, ''Agree with us and you report out this nomination, or we will say you are against civil rights, we will accuse you of being against African-Americans, we will say you are against women, we will say you are against Chinese-Americans.'' They would, in fact, play the race card.

Sad to say, they have done just that.

Mr. President, let me share with Members of this body and the American people some of the things that were said by Senators in this body about those of us who have concerns about this nomination. The Democratic leader had a press conference earlier this week, and he said, ''The far right doesn't want the Civil Rights Division filled because they don't want civil rights laws enforced.''

Now, I submit that is a sad thing to say. That is an extreme thing to say, that the chairman of our committee, Senator ORRIN HATCH, who has worked hand in glove with this administration to confirm every nominee they sent forward for the Department of Justice, except this one. This is the only one he has objected to. It is extremely unfair to say that we don't want civil rights laws enforced because we want to question this nominee and we believe he is outside the mainstream of current legal thought.

Senator KENNEDY said, ''It's wrong for Republicans to hold him hostage to their anti-civil-rights agenda.'' I'm for civil rights. I believe in that. The other Members do. We just need to talk about what we really mean by the words ''civil rights.'' Do civil rights mean equality for all as we traditionally thought? Or do we go to a new definition of civil rights that means preferences and advantages to one group or another group because of the color of their skin? We are not against civil rights. Senator KENNEDY went on to say, ''It would be an outrage for a small band of anti-civil-rights Republican Senators to bottle up this nominee. A vote against Bill Lee is a vote against civil rights,'' he said.

Another Senator, Senator BOXER said, ''By opposing Bill Lee, I think the Republicans are sending a signal to every minority in this country, to every woman in this country, that, frankly, they don't believe in equal opportunity for everyone.''

That hurts me, Mr. President, to hear a Member of this body make such an extreme statement as that. I really think it was unnecessary and goes beyond what ought to have been said. We can disagree whether or not this nominee ought to be confirmed. But I think we ought to all respect each other's views and opinions more than that. So I am concerned about that.

Another Senator, Senator MIKULSKI, was also aggressive in her remarks. This is how it was reported in the Washington Times the other morning on the front page:

> Congressional Democrats, in a bid to save the nomination of a Chinese American as assistant Attorney General for Civil Rights, yesterday accused Republicans of racism.
>
> ''I don't think the United States Senate should be a forum for attacking Chinese Americans,'' said Senator Mikulski. ''We don't want Bill Lann Lee to be the Anita Hill of 1997,'' she said.

This is what the paper reported:

> Just after finishing leveling fire, the Maryland Democrat walked over to Senator Edward M. Kennedy and said under her breath, ''I hated to do that, but we had no choice.''

I am glad at least to know that she was reluctant to make those comments. I think she well should have been because I intend to take, and every member of this committee intends to take, this nominee seriously. We need to give him a fair hearing. He needs to be treated respectfully. But if his ideas are outside the mainstream of current American law, outside the direction we believe this Nation ought to go in civil rights, we have a responsibility to reject the nomination, and that is what I intend to do. I intend to fulfill my responsibility.

I want to say right now that I don't intend to be intimidated by attacks of that kind. I am going to do what I believe is right for this country.

Let me read you what some of the testimony was at hearings about this nominee.

Mr. Gerald A. Reynolds, an African-American, president of the Center for New Black Leadership, testified that he strongly opposed the nomination of Mr. Lee. He said:

> If confirmed as Assistant Attorney General, Mr. Lee's background suggests that no democratic principle, controlling legal authority, nor legal standard will prevent him from furthering his particular ideological agenda.

Further he said:

> For the last 30 years, traditional civil rights organizations have used civil rights laws as a weapon to extract benefits for racial minorities, no matter what the cost. Mr. Lee has spent most of his professional life doing that same thing.
>
> Mr. Lee's legal defense fund sought to overcome the will of the citizens of California by persuading the ninth circuit to affirm Judge Henderson's ruling against Proposition 209.
>
> I would argue that the legal defense fund's attempts to nullify Proposition 209 constitutes a direct assault upon our democratic principles. The legal defense fund's case against Proposition 209 rested on a thin reed. Basically, it rested upon two cases that are easily distinguishable from the facts surrounding Proposition 209.

I think we will talk about Proposition 209 in a minute. But just to point out, that is a civil rights initiative in California that said people should be treated alike regardless of the color of their skin, and it mirrored almost exactly the 14th amendment to the Constitution of the United States and the Civil Rights Act of 1964.

Mr. Reynolds goes further:

There are other examples. We can look to the lawsuit in Los Angeles. The Los Angeles County Metropolitan Transportation Authority decided to increase its bus fares and eliminate monthly bus passes. Mr. Lee's legal defense fund lawsuit alleged that the MTA action violated the civil rights laws and the Constitution because they had an adverse impact on minorities and poor people.

Mr. Reynolds continues:

We can debate whether it was a good idea to eliminate some of the benefits that the citizens of Los Angeles enjoyed, but I think it is a stretch to conclude that a policy decision such as raising a bus fare and eliminating bus routes and eliminating bus passes constitutes a constitutional violation.

He went on to note that:

The lesson that we should have walked away with is that race is a toxic circumstance, and that it is wrong to distribute benefits and burdens on the basis of race.

I questioned Mr. Reynolds and I asked him about busing and how people in the minority community feel about busing.

Mr. Reynolds replied:

I think it is clear that most parents are concerned with the quality of education that their children receive, and most parents, black and white, do not care. Well, actually they prefer that it be a neighborhood school. More importantly, I think time has shown that forced busing has been an unmitigated disaster.

Those were the words of Mr. Reynolds. I further asked him, had he seen cases like the Houston busing case, on which Mr. Bill Lann Lee was the attorney, and where lawyers, professional litigators, who were involved in these issues as a business, their livelihood, continued to pursue remedies that the children and the parents of the children do not want. Mr. Reynolds answered: ''Yes.''

Well, that was from Mr. Gerald Reynolds, an African-American citizen of this country, opposing Bill Lann Lee. Is he against African-Americans? I submit not. Is he against women? I submit not. Is he against Chinese-Americans? I submit not. Is he against civil rights? I say no. He's for civil rights. There is no doubt about that.

Let me read you this excerpt from the testimony, in June, of Charlene F. Loen. Like Mr. Lee, she is a Chinese-American, and she gave some of the most poignant testimony I have heard before our committee. She actually came to tears. She talked about her son, Patrick, who wanted to attend Lowell High School in San Francisco, but he was prevented from attending that public high school because of a racial quota set up under a Federal court consent decree in 1983. Under the consent decree, she said:

Hard work and good grades are not always enough. My son Patrick found out the hard way.

I am quoting again:

In 1994, Patrick applied to Lowell, with a test score of 58 out of a 69. That year, Lowell set the minimum score for Chinese students at 62. But then Lowell set the minimum scores for white students and other Asians at 58. Lowell set the minimum scores for blacks and Hispanics lower than that. So Patrick could have gotten into Lowell if he were white, Japanese or black. He was rejected because he was Chinese American.

She went on:

Discipline, hard work, and academic achievement should be rewarded. Patrick studied hard, he got the grades, and he was rejected because he is of Chinese descent.

She went on:

The year Patrick was rejected, the San Francisco school district announced the opening of a new academic high school, Thurgood Marshall. I went to the school district to apply for Patrick. Right away, the person at the office asked me, ''Is Patrick Chinese?'' I said, ''yes,'' and she said that the slots for the Chinese were already taken at Thurgood Marshall. I asked how could that be because the application period was not even over yet. She shrugged and said that that is just what the consent decree requires. Patrick also applied at three other high schools—Wallenberg, Washington, and Lincoln—and all three rejected him because they already had too many Chinese under the consent decree.

Those were her words. That is not the way, I submit, we ought to operate our Government today. She felt very strongly about that. And this is a Chinese-American testifying before our committee. In November, she said the Federal judge who approved the consent decree approved a payment by the State of California of over $400,000 in legal fees to the NAACP, the legal defense fund, Bill Lee's unit, for opposing the lawsuit; in other words, the lawsuit that she had filed to try to get her son to be able to go to the school of her choice that he qualified to by objective standards.

A judge denied a motion to end the consent decree.

This is how she concluded her remarks.

Under the consent decree can you be denied admission to public school because of your race by treating people as members of racial groups rather than as individuals with the same rights before the law. The consent decree has dashed the hopes of children, denied my son and many others the right to opportunities they earned through hard work and diligence, condemned children to needless busing, prevented parents from being involved in their school and thereby holding school administrators accountable, and divided the people of San Francisco.

Divided the people of San Francisco.

This is the way things have been in San Francisco for the past 14 years.

Is Mrs. Loen against civil rights? I submit not. Is she against Chinese-Americans? No, she is not. She is a Chinese-American. Is she against women? No. Is she against minorities and civil rights? No.

Let me read this testimony before the Judiciary Committee's Subcommittee on the Constitution Federalism, and Property Rights chaired by Senator JOHN ASHCROFT. This is the statement of Senator MITCH MCCONNELL of Kentucky. He was talking about the ''legally ordained'' set-aside in Federal highway funding that mandated a certain percentage of the money be spent toward minority contractors.

This is what Senator MCCONNELL recounted:

Michael Cornelius recently spoke poignantly to this point before the Constitution Subcommittee in the House of Representatives. He explained that his firm [his business] was denied a Government contract under ISTEA [a Federal program] even though his bid was $3 million lower than his competitor's. Mr. Cornelius' bid was rejected because the Government felt that the bid ''did not use enough minority- or women-owned subcontractors.''

To comprehend the full extent of the Government's unconstitutional policy, you must understand that the Cornelius bid proposed to subcontract 26.5 percent of the work to firms owned by minorities and women, and, of course, the Government concluded that even that was inadequate.

This is the kind of matter that the *Adarand* decision dealt with, and the *Adarand* decision is a decision Mr. Lee says he believes is bad constitutional law. But that is the Supreme Court of the United States, which in the *Adarand* decision set forth standards that basically demonstrate that these kind of set-asides are not fair. They are in violation of the equal protection clause of the Constitution of the United States.

Mr. President, I would also like to quote one more witness who testified. This is Mrs. Sue Au Allen, a Chinese-American, the President of the United States-Pan American Chamber of Commerce, a national nonprofit organization representing Asian-American business men and women, and other professionals.

She is a very impressive lady, and was very direct in what she had to say about the Lee nomination. She said:

Mr. Lee's record gives me grave concern, Mr. Chairman. As a nation's top civil rights law enforcement official, he will advocate certain policies on race and gender issues that are contrary to constitutional guarantee of equal right and opportunity for all Americans and that will have a deleterious effect on racial and gender harmony in general and on the rights of many individuals in particular.

She went on to say:

When I look at the arguments he has made in the last 20 years to determine his understanding of what equal protection requires, I learned that he does not believe in civil rights for all. He believes in quotas, set-asides, and preferences based on race and gender. This is not my belief. The person who believes in civil rights for some based on race and gender is a wrong person for this job.

She continues:

And his organization's defense of continuing judicial control of the desegregation of Lowell High School in San Francisco for high admission standards required of students whose admissions are kept at 40 percent . . .

She particularly mentioned that. This was just a few weeks ago. It is the same comment made by Mrs. Loen that I read earlier about Lowell High School in San Francisco.

Mrs. Allen continues, describing the assault on Proposition 209, the California civil rights initiative. This is what she said:

To bolster the assault on 209, Mr. Lee's Legal Defense Fund recruited the Federal Government as his ally. First, he filed a complaint with the U.S. Department of Labor's Office of Federal Contract Compliance Program and said that the decline in minority admissions at the University of California violates affirmative action rules imposed on Federal contractors.

This is the university:

It argued that the lowered admissions reduced the number of minority graduate students that the university might hire in complying with Federal racial preference programs.

This pushes legal theory, I submit, beyond any reasonable standard. This was for Mr. Lee's use. He is a private attorney now. He gained the support of his allies in the Department of Labor.

Quoting Mrs. Allen:

Second, although no student had ever complained about discrimination because of Proposition 209 or the University of California regents' vote to end racial preferences in admissions, Mr. Lee's Legal Defense Fund filed a complaint with the United States Department of Education attributing to discrimination the decline in minority admissions and enrollment at select University of California campuses.

So, Mrs. Allen is making a significant point. What she was saying was that even though a private attorney, Mr. Lee has been adept at inducing the Federal Government to join with him in his legal theory.

If confirmed in this position, he will, in fact, be the Federal Government, and he will have 250 attorneys at his disposal to send out on whatever cause he might deem appropriate.

She goes on to say this:

A San Francisco school district has been under a consent decree since 1983 because the Legal Defense Fund brought a suit to desegregate the school.

That is, since 1983, they have had a Federal judge monitoring that school system, I submit Mr. President.

She continues:

Under that decree, Lowell High School, a magnet school, where competition for admission is fierce, operates with a 40-percent cap on Chinese students. In addition, the school sets higher admission standards for Chinese students than for any other race or ethnic group. Recently, several Chinese students and their parents challenged that consent decree. But the Legal Defense Fund . . .

Which I submit is Mr. Lee's organization which he headed in the west:

. . . the Legal Defense Fund has actively defended the continuing judicial control over the district in the name of desegregation, this despite the adverse impact on Chinese students who would otherwise be admitted to Lowell and against the strong opposition of their parents.

Chinese-American parents.

Mrs. Allen said:

When the Legal Defense attorney called the consent decree segregation by inclusion, to me it is desegregation by discrimination and exclusion. These examples raise a very important question. As head of civil rights enforcement, will Mr. Lee argue for continued forced busing?

This lady Sue Au Allen, president of the Pan American-Asian Chamber of Commerce—is she anti-Chinese? She is of a Chinese descent. Is she antiwomen? Is she anticivil rights? Is she antiminority? I submit no.

Serious questions have been raised about this nominee. This use of scurrilous attacks has not been coming by those of us who are concerned about nominations. We are talking about real issues. We are talking about real cases. We are talking about the position of the U.S. Department of Justice and what kind of position it will be taking in these cases as the years go by.

Those who oppose him, however, have been intemperate at best in those remarks, and I hope and pray that they will evaluate that and be more responsive, be more respectful of their colleagues in the future.

Let me say this. Incivility is not acceptable. In my opinion, the Judiciary Committee over the past decade, over 20 years, 15 or 20 years, has gone through a series of confirmation battles that have not been healthy. They have not reflected well on the Senate, and they have not done well in analyzing whether or not people should be confirmed. I for one believe we ought to do better. I believe we ought to have a higher standard. I believe we ought to dig in seriously to the nominees and what they believe, their integrity, their ability and their legal philosophy. And I think we can do that and sometimes we are going to say no. We hate to. It is no fun to say no to a person who would like to have a position of prominence. But that is our position of responsibility and we must face up to it.

Let me just say this. Why is it that I am concerned with this nomination? There has been a lot of talk about the California civil rights initiative, Proposition 209, a very, very important event in American history.

Basically, what the people of California said is we do not believe in preferences. We, in effect, believe that in our State we want the law to be very similar and basically the same as what the 14th amendment to the Constitution of United States says. So they really encapsulated the 1964 Civil Rights Act, and the people of California passed that by a significant margin.

Mr. Lee's organization immediately joined in a challenge to that proposition and in fact filed a brief. It is one thing for him to oppose the proposition when the people are voting on it, to campaign about it, but he went further than that. His organization joined in the litigation to have Proposition 209, which says almost the same thing as the Constitution of the United States, declared unconstitutional, a perfectly legitimate referendum declared unconstitutional. And this is what the court of appeals, the Ninth Circuit Court of Appeals held when they considered Mr. Lee's opinion on Proposition 209.

They said this. This is a Federal court:

As a matter of conventional equal protection analysis —

Equal protection clause of the 14th amendment—

there is simply no doubt that Proposition 209 is constitutional.

Those are the words of the ninth circuit, the most liberal of the eleven circuits in this country. Everyone suggests that. That circuit flatly rejected Mr. Lee's position, saying there is no doubt about it. And what is troubling is here you have an attorney seeking to attack the will of the people by bringing in a challenge to the constitutionality of an act that had no basis.

The court continued to say:

After all, the goal of the 14th amendment, to which the Nation continues to aspire, is a political system in which race no longer matters. The 14th amendment, lest we lose sight of the forest for the trees, does not require what it barely permits.

In other words, it does not require, the 14th amendment does not require preferences based on a person's race. It barely permits it. Only in the most extreme circumstances, only under the most strict scrutiny will a court ever approve an event in America in which we give a benefit to one person, thereby denying it to another simply because of their race.

So we have to be honest about this. It is time for us to talk about it seriously. We believe—I certainly do—in affirmative action, to go out and affirmatively solicit every person to apply, to seek out the best talent, to give people every chance to succeed, but we cannot tolerate quotas and set-asides and things of that nature.

Well, that is the important issue, Proposition 209, and Mr. Lee, when questioned about it, says it continues to be his position. And at the Civil Rights Division of the Department of Justice he would be prepared to file a brief on behalf of the United States of America in the Supreme Court to declare it unconstitutional. But he would not get that opportunity because the Supreme Court refused to even review the Ninth Circuit Court of Appeals ruling. The Supreme Court of the United States let it stand, denying certoriori, in effect saying this is a matter not even worth our time to consider because the law is so clear, agreeing totally with the ninth circuit's opinion.

Well, there is another matter of importance, and that is the Supreme Court decision, recent decision in the Adarand case. Adarand dealt with the set-asides in Federal law, that in effect tell Federal Government highway administrators that they must set aside a certain percentage of Federal contracts for minority contractors. I earlier read the comments of Mr. Cornelius who was the low bidder by $3 million on one of those contracts and had an agreement to hire 25 percent of his subcontractors who would be minorities, and that was rejected because it was not generous enough. This is the kind of issue with which we are dealing.

Adarand said basically that that cannot continue. I would suggest that the Supreme Court is very seriously thinking about this issue, and I believe the

Supreme Court has looked down history in America and they have thought about it and they are saying we have got to stop, we have got to get out of this business of disbursing the goods and services of America based on what group you belong to. This is not the kind of principle upon which our country was founded, and that is what they meant by the Adarand decision, and that's why legal scholars consider it of thunderous importance, an extremely important decision.

OK. How does Mr. Lee feel about that? He opposed the Adarand decision. I asked him, does he still believe it is bad law? He says he believes it is bad law. He testified he does not agree with it. And he said something that is particularly troubling about it.

In his testimony, Mr. Lee stated that Adarand allowed affirmative action programs, which in this case means a kind of set-aside, in effect quotas. Sometimes affirmative action means affirmative outreach. Sometimes it means racial preferences and quotas. It just depends how it is used. But in this case we are talking about Adarand which had a set-aside in the law to favor some people. He said he thought they were legal under the Adarand decision if conducted in a limited and measured way.

That is not, Mr. President, what the Court in Adarand said. The Court in Adarand said that set-asides like this highway program are presumptively unconstitutional and can never be allowed except under the strictest of scrutiny. It is for the most significant of reasons that would justify these kinds of actions.

So what troubles me about that, and I know Senator HATCH raised it, is it suggests that as the top civil rights lawyer in this country he would not interpret Adarand the way the legal scholars do but would interpret Adarand in a way that would justify him applying the resources of the 250 attorneys in the Department of Justice to undermine the Adarand decision the Supreme Court has rendered.

So let me ask, am I against civil rights to say that? Do I not believe in civil rights to say that I agree with the Supreme Court of the United States, I agree with the ninth circuit of the United States with regard to Proposition 209? I submit not. I believe in civil rights for everyone and I think most Americans do.

I wanted to quote from the words of Congressman Charles Canady who testified before the Subcommittee on Constitution, Federalism and Property Rights of the Judiciary Committee just a few days ago actually. And this is what he says, Congressman CANADY from Florida:

> If we go back to 1961, when President KENNEDY promulgated the original Executive order on affirmative action, it was clear in that Executive order that steps were to be taken to reach out to all parts of the community to bring people into the pool of applicants for opportunities, but that people were to be treated without regard to their race. That specific language was used in the Executive order.
>
> So I believe that Senator MCCONNELL's proposal encompassing a number of outreach elements is [what we should do].

Congressman CANADY continued:

> Now, this system of set-asides [which was legally challenged in the Adarand decision] that is in place has been described as a remedial system. The problem with this system, however, is that it provides benefits to people who have not demonstrated that they are victims of any specific wrongdoing and it imposes cost on individuals who have been demonstrated to be guilty of no wrongdoing themselves.
>
> Do we get that? It provides benefits to people who do not demonstrate that they have been harmed and it provides costs on those who have not been demonstrated to have done anything wrong. Is it against civil rights to think such a policy is not good?

Congressman CANADY continued, I think saying it well:

> I believe if we step back from this system [step back, like the Supreme Court is doing] which was put in place with the best of intentions [these set-asides and preferences and quotas] we have to conclude on the basis of our history as Americans that racial distinctions are inherently pernicious. It is fundamentally wrong [Congressman CANADY continued] for our country to divide this country into groups based on race and gender and then award benefits to some people because they belong to the right group and deny benefits to other people because they belong to the wrong group. That is inconsistent with our fundamental American values. It is inconsistent with the way our Government should treat its citizens.

He concluded:

> I believe that the American people are becoming more and more weary of this failed system of race and gender preferences. They want to reaffirm the promise of America, that all Americans will be treated as individuals who are equal in the eyes of the law.

Well, I thought a good while about this. I think it was important to do so. I will just say this. We cannot end discrimination by practicing discrimination. That is fundamental. Make no mistake, when you benefit one person because of the color of his or her skin you are depriving another person because of the color of his or her skin. It is just that simple. It can be no other way. And the courts are agreeing with this. And Mr. Lee is outside the mainstream of judicial thought in America today. His opinion, opposing the most important Adarand decision, represents that he opposes the position of the Supreme Court of the United States. For that reason I feel compelled to vote ''no'' on his nomination.

I yield the floor.

N O T I C E

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR MONDAY, NOVEMBER 10, 1997

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Monday, November 10. I further ask that on Monday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate proceed to a period of morning business for not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. Mr. President, tomorrow the Senate will be in a period of morning business until 10:30 a.m.

Following morning business, the Senate intends to consider and complete action on the following:

The fast-track bill, if passed by the House; additional motions, if necessary, with respect to the omnibus appropriations bills; and any Legislative or Executive Calendar items cleared for action.

Therefore, Members can anticipate rollcall votes during Monday's session of the Senate. However, I would not expect votes before 11 a.m.

Mr. FORD. Mr. President, as the acting leader laid out at the beginning, at 10:30, following morning business, what do you expect to go to next? Would there be any time limitations on the fast-track? If it is here.

Mr. SESSIONS. I say to the distinguished Senator from Kentucky that, of course, it has to get here first.

Mr. FORD. I understand.

Mr. SESSIONS. If it does, this unanimous consent request says we will move to the fast-track bill, if passed by the House. Additional motions, if necessary, with respect to the omnibus appropriations bill, and any Legislative or Executive Calendar items cleared for action.

Mr. FORD. I am sure this has been agreed to. This has all been cleared.

Mr. SESSIONS. I thank the Senator from Kentucky.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:50 p.m., adjourned until Monday, October 10, 1997, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 9, 1997:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ROBERT H. BEATTY, JR., OF WEST VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 30, 1998.

EXECUTIVE OFFICE OF THE PRESIDENT

ARTHUR BIENENSTOCK, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

DEPARTMENT OF COMMERCE

RAYMOND G. KAMMER, OF MARYLAND, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

DEPARTMENT OF THE INTERIOR

KEVIN GOVER, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

UNITED STATES POSTAL SERVICE

ERNESTA BALLARD, OF ALASKA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2005.

FEDERAL LABOR RELATIONS AUTHORITY

DALE CABANISS, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM EXPIRING JULY 29, 2002.

MERIT SYSTEMS PROTECTION BOARD

SUSANNE T. MARSHALL, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2004.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WILLIAM R. FERRIS, OF MISSISSIPPI, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR A TERM OF FOUR YEARS.

OFFICE OF PERSONNEL MANAGEMENT

JANICE R. LACHANCE, OF MAINE, TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT FOR A TERM OF FOUR YEARS.

THE JUDICIARY

FRANK C. DAMRELL, JR., OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

MARTIN J. JENKINS, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

A. RICHARD CAPUTO, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

EXTENSIONS OF REMARKS

RELEASE OF HOUSE RESOURCE COMMITTEE MAJORITY STAFF REPORT ON SUBPOENAED NATIONAL MONUMENT DOCUMENTS

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 1997

Mr. HANSEN. Mr. Speaker, the majority staff of the House Committee on Resources will release a staff report today on the subpoenaed national monument documents received from the Clinton administration. The documents show that the designation of the Grand Staircase-Escalante National Monument was politically motivated and probably illegal.

It is very important that these documents are opened up for public scrutiny. They show the American people that the designation of the monument was politically motivated; that the administration engaged in a concerted effort to keep everything secret in order to avoid public scrutiny; and that the administration admitted that the lands in question weren't in danger and weren't among the lands in this country most in need of monument designation.

The White House abused its discretion in nearly every stage of the process of designating the monument. It was a staff drive effort, first to short-circuit a congressional wilderness proposal, and then to help the Clinton-Gore re-election campaign. The lands to be set aside, by the staff's own descriptions, were not threatened. ''I'm increasingly of the view that we should just drop these Utah ideas * * * these lands are not really endangered.''—Kathleen McGinty, chair, Counsel on Environmental Quality [CEQ].

The documents also show that claims by the administration that the monument was created to save Utah from foreign coal mining was nothing but a front to make the idea look legitimate. The administration was already several months into the process of creating the monument before anyone even mentioned throwing in the Kaiparowits Plateau. The administration added the Kaiparowits, with its attendant Andalex coal leases, at the last minute so they could claim they were protecting some endangered lands.

The documents are loaded with evidence of a concerted effort by the Department of the Interior [DOI] and CEQ staff to circumvent the National Environmental Policy Act [NEPA]. Staff was aware that the law requires NEPA compliance, with its attendant public input process, when national monument proposals come out of an agency. The documents show how DOI and CEQ spent months trying to create a paper trail to make it look like the idea came directly from the President. ''We need to build a credible record that will withstand legal challenge * * * so [this] letter needs to be signed asap so that the secretary has what looks like a credible amount of time to do his investigation of the matter.''—Kathleen McGinty, chair, Counsel on Environmental Quality [CEQ].

Probably the most telling, yet unsurprising, document is where CEQ Chair Kathleen McGinty fills-in President Clinton on the Political Purpose of the national monument designation: ''It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration * * *''

Ms. McGinty continued by noting that: ''[T]he new monument will have particular appeal in those areas that contribute the most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area.''

Ms. McGinty noted that there would be a few who would oppose the designation, but they were generally those ''who in candor, are unlikely to support the Administration under any circumstances''. Translation: Designating the monument would help get Clinton western electoral votes in the 1996 election. He would lose Utah, but he didn't have a chance at winning that State anyway.

These documents should make it clear to the American people that the real reason that the administration used the Antiquities Act on these lands was to circumvent congressional involvement in public land decisions, to evade the public involvement provisions of NEPA, and to use our public lands as election year props. The Clinton administration's actions show not only a disregard for the State of Utah, but a blatant disregard for America's public land laws, and a contempt for the democratic process.

[105th Congress, 1st Session, House of Representatives]

LEGISLATIVE STUDY AND INVESTIGATIVE STAFF REPORT ON ABUSE OF DISCRETION IN THE CREATION OF THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT UNDER THE ANTIQUITIES ACT, NOVEMBER 7, 1997

Majority staff of the Committee on Resources, Subcommittee on National Parks and Public Lands submits the following staff report to the Members of the Committee, ''Behind Closed Doors: The Abuse of Trust And Discretion In The Establishment Of The Grand Staircase-Escalante National Monument.''

INTRODUCTION: COMMITTEE REVIEW OF THE DESIGNATION OF THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

On September 18, 1996, President Clinton established, by Presidential Proclamation No. 6920, the 1.7-million-acre Grand Staircase-Escalante National Monument (''Utah Monument'') in Utah pursaunt to Section 2 of the Act of June 8, 1906 (''Antiquities Act''). The Committee on Resources has jurisdiction over the Antiquities Act and the creation of the Monument, jurisdiction that is delegated under Rule 6(a) of the Rules For the Committee on Resources (''Committee Rules'') to the Subcommittee on National Parks and Public Lands.

The Subcommittee has a continuing responsibility under Rule 6(d) of the Committee Rules to monitor and evaluate administration of laws within its jurisdiction. In relevant part, that rule states: ''. . . Each Subcommittee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those statutes or parts of statutes, the subject matter of which is within that Subcommittee's jurisdiction; and the organization, operation, and regulations of any Federal agency or entity having responsibilities in or for the administration of such statutes, to determine whether these statutes are being implemented and carried out in accordance with the intent of Congress. . . .''

The Subcommittee, in concert with the Full Committee, undertook its Rule 6(d) responsibility when, on March 18, 1997, Chairman Young and Subcommittee Chairman Hansen initiated a review of the creation of the Monument. Some records were produced by the Council on Environmental Quality (CEQ) and the Department of the Interior (DOI) pursuant to a March 18, 1997, request to the Chair of CEQ and the Secretary of DOI related to the review. The documents that were produced were utilized by unanimous consent at a Subcommittee oversight hearing on April 29, 1997.

However, CEQ Chair Kathleen McGinty refused to produce copies of embarrassing documents that revealed why—beyond the reasons stated in the proclamation and publicly—the monument was created. Staff was given access to some of the documents and Members to others in an attempt to accommodate stated Administration desires to keep the documents secret because the Administration claimed they might be ''privileged.'' However, constitutional executive privilege was never officially asserted by the President over the documents.

Chairman Young was delegated the authority to subpoena Monument records by the Committee on September 25, 1997. After a protracted legal exchange between the White House and Committee staff on the applicability of privileges to the documents withheld, Chairman Young, on October 9, 1997, issued the subpoena for the records withheld by CEQ Chair Kathleen McGinty.

The subpoena was unreturned on the due date and the committee staff began preparing a contempt resolution. However, on Wednesday, October 22, 1997, the Counsel to the President, Charles F.C. Ruff, produced the subpoenaed documents to the Committee.[1]

The delay—from March through October 1997—in producing the ultimately subpoenaed documents thwarted efforts of the Subcommittee and Committee to properly undertake its duties under Article I and Article IV of the Constitution and Rule 6(d) of the Committee Rules. The Subcommittee hearing on the matter had already been held and the remaining days in the first session of the 105th Congress were limited. The Committee is actively considering legislation that modifies the Antiquities Act.

As a result of the delay, the Chairman and Subcommittee Chairman requested this legislative study and investigative majority

[1] Based upon representations of CEQ staff, all documents in the possession of CEQ regarding the Grand Staircase-Escalante National Monument have now been produced.

staff report. The request was to analyze and append relevant documents produced under the subpoena that show if there were abuses of discretion by the President and his advisors in the execution of the Antiquities Act to create the Utah Monument and whether that Act was being implemented and carried out in accordance with the intent of Congress. This legislative study and report responds to that request. This report was developed for and provided to Members of the Committee on Resources for their information so that Members can undertake their legislative and oversight responsibilities under the Constitution, the Rules of the House of Representatives, and the Rules for the Committee on Resources.

THE LAW: ANTIQUITIES ACT MONUMENT DESIGNATIONS

The Antiquities Act can be summarized simply. By proclamation, the President may reserve federal land as a National Monument. The land must be a historic landmark, a historic or prehistoric structure, or an object of historic or scientific interest. In addition, the reserved area must ''in all cases'' be ''confined to the smallest area compatible with the proper care and management of the objects to be protected.'' The Act contemplates that objects to be protected must be threatened or endangered in some way.[2]

EXECUTIVE SUMMARY OF FINDINGS

MONUMENTAL DECISIONS BEHIND CLOSED DOORS

''I'm increasingly of the view that we should just drop these Utah ideas . . . these lands are not really endangered.''—CEQ Chair Kathleen McGinty.

The state of Utah was settled by hearty Mormon pioneers seeking to avoid persecution for their beliefs. They moved west in an effort to find wide, open spaces and freedom from intrusion into their affairs by their neighbors and the government. Now, more than a century later, the citizens of Utah have been forced to endure the ultimate government intrusion: a federal land grab of 1.7 million acres, taken in the dead of night—with no public notice, no opportunity to comment, and no involvement of the Utah Congressional Delegation. Indeed, the Utah delegation was deceived about the imminent decision to designate the Grand Staircase-Escalante National Monument up until hours before the President's high-profile, public, campaign-style announcement.

Once again, at the hands of the Clinton Administration, the people of Utah were being persecuted for their beliefs. Had Utah been a pro-Clinton state, a state with prominent Democratic Members of Congress, or one that factored importantly into Clinton's reelection effort, then the land-grab would almost certainly not have occurred.

In sum, the documents received by the Committee show several points quite clearly: (1) the designation of the Monument was almost entirely politically motivated; (2) the plan to designate the monument was purposefully kept secret from Americans and Utah Members of Congress; (3) the Monument designation was put forward even though the Administration officials did not believe that the lands proposed for protection were in danger; (4) use of the Antiquities Act was intended to overcome Congressional involvement in land designation decisions; (5) use of the Antiquities Act for monument designation was planned to evade the National Environmental Policy Act (NEPA). Indeed, its use was specifically intended to evade the provisions of NEPA and other federal administrative requirements, and to assist the Clinton-Gore reelection effort.

IT'S POLITICS, STUPID—NOT THE ENVIRONMENT

The records and documents provided by the CEQ and DOI clearly demonstrate that the Administration's goal was political, not environmental, a fact that contradicts the Congressional intent of the Antiquities Act.

The Clinton White House took pains to ensure that all prominent Democrats from neighboring states were not only warned in advance, but had an opportunity to give their views on the designation. In an August 14, 1996, memorandum for the President, CEQ Chair Kathleen McGinty opines that the monument designation would be politically popular in several key Western states. In Ms. McGinty's words: ''This assessment squares with the positive reactions by Sentor [sic] Harry Reid (D-NV), Governor Roy Romer (D-CO), and Representative Bill Richardson (D-NM) when asked their views on the proposal. . . . Governor Bob Miller's (D-NV) concern that Nevada's sagebrush rebels would not approve of the new monument is almost certainly correct, and echoes the concerns of other friends, but can be offset by the positive response in other constituencies.''

In fact, even non-incumbent Democratic candidates for office from states other than Utah were warned about the impending land grab. CEQ Chair Kathleen McGinty explained this in a moment of partisan candor in her September 6, 1996, White House weekly report: ''I have called several members of congress to give them notice of this story and am working with political affairs to determine if there are Democratic candidates we should alert. We are neither confirming nor denying the story; just making sure that Democrats are not surprised.''

It was only Republicans, the lone Utah Democratic Member, and Utahans who were to be kept in the dark. Even media outlets like the Washington Post were advised by insiders to the Utah Monument decision as evidenced by electronic mail (e-mail) traffic: ''Brian: So when pressed by Mark Udall and Maggie Fox on the Utah monument at yesterday's private ceremony for Mo [Udall] Clinton said: 'You don't know when to take yes for an answer.' Sounds to me like it's going forward. I also hear Romer is pushing the president to announce it when he's in Colorado on Wednesday. . . . —Tom Kenworthy'' (September 10, 1996 From Brian Johnson (CEQ press) to others at CEQ transmitting e-mail from Washington Post reporter Tom Kenworthy).

Another CEQ staffer commenting on the above e-mail: ''Wow. He's got good sources and a lot of nerve.'' (September 10, 1996, response from Tom Jensen to Brian Johnson's e-mail previously forwarded).

The exchange continues: ''south rim of the grand canyon, sept 18th—be there or be square.'' (September 11, 1996, e-mail from Tom Kenworthy to Brian Johnson).

The exchange continues again: ''Nice touch doing the Escalante Canyons announcement on the birthday of Utah's junior senator! Give me a call if you get a chance.'' (September 16, 1996, e-mail from Tom Kenworthy to Brian Johnson).

This e-mail traffic demonstrates that by September 10 and 11, 1996, the Washington Post clearly had been notified not only that the decision had been made, but when and where the announcement would be. By contrast, the Utah Congressional delegation was being told by Ms. McGinty and top CEQ staff on September 9 that no decision had been made and the delegation would be consulted prior to any announcement.

Moreover, CEQ, White House Staff, and DOI officials met with Utah's delegation staff again on September 16, 1996—two days before the Utah Monument designation—and continued to deny that a decision had been made to go forward with the designation. Meeting notes taken by Tom Jensen of CEQ at the September 16, 1996, meeting indicate the following exchange between Senator Hatch and Kathleen McGinty: ''Senator Hatch: 'Can you give us an idea of what the POTUS [President] will do before he does it? Don't want to rely on press.''' ''Kathleen McGinty: 'Yes. We need to caucus and will reengage.'''

This deception, a full week after the Washington Post knew all of the details of the Utah Monument designation and ''Utah event,'' allowed the White House to move forward without Congressional intervention.

In an August 14, 1996, memo to the President, CEQ Chair Kathleen McGinty candidly discusses the goal of the project—to positively impact the President's re-election campaign: ''The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. . . . It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration . . . Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances.

Many of the documents attempt to gauge the political impact of the action, yet the environmental impact of the decision is rarely explored. Regardless of the environmental impact, the Clinton-Gore campaign needed the Utah Monument to shore up its political base in the environmental movement. When environmental impact is explored in some documents, they note that the lands to be set aside under the designation are not environmentally threatened—a sentiment echoed by CEQ Chair Kathleen McGinty herself in a March 25, 1996, e-mail: ''i'm increasingly of the view that we should just drop these utah ideas. we do not really know how the enviros will react and i do think there is a danger of 'abuse' of the withdraw/antiquities authorities especially because these lands are not really endangered.''

In a March 22, 1996, e-mail, CEQ Associate Director for Public Lands Linda Lance agreed, warning against the Utah Monument designation because of the political impact of using the Act to set aside unthreatened lands: ''. . . [T]he real remaining question is not so much what this letter says, but the political consequences of designating these lands as monuments when they're not threatened with losing wilderness status, and they're probably not the areas of the country most in need of this designation. presidents have not used their monument designation authority in this way in the past—only for large dramatic parcels that are threatened. do we risk a backlash from the bad guys if we do these—do they have the chance to suggest that this administration could use this authority all the time all over the country, and start to argue that the discretion is too broad?''

However, sentiment changed a few days later. The March 27, 1996, e-mail from Linda Lance at CEQ to Kathleen McGinty who forwarded it to others at CEQ shows that DOI was keeping the Monument idea alive: ''since i and i think others were persuaded at yesterday's meeting w/Interior that we shouldn't write off the canyonlands and arches monument just yet here's another try at a draft letter to Babbitt to get this process started.''

[2] See Report to accompany S. 4698, Rpt. No. 3797, 59th Cong., 1st Sess. (May 24, 1906).

Despite the fact that CEQ Chair advocated dropping the idea, and despite the fact that there is no indication that the President had given either CEQ or Interior any formal notice that he even knew about the idea, DOI was apparently hard (behind the scenes) for this monument. Still there was no letter in March, April, May, June, or July 1996 from the President to the Secretary directing work on designating a possible Utah Monument. At a minimum, this is a violation of the spirit of NEPA, a statute that CEQ is responsible for implementing. Both DOI and CEQ knew it was a violation. Hence, the urgency in seeking the letter from the President to the Secretary directing him to undertake work to designate the Utah Monument.

THE ENDS JUSTIFY THE MEANS: NEPA, A LAW OF CONVENIENCE FOR THE CLINTON-GORE CAMPAIGN

No Presidential written direction to the Secretary of DOI emerged until August 7, 1996, and by then, the first planned announcement was only ten days away. Still, no one from state or local government, or the Utah Congressional delegation had been consulted. These actions, in the absence of written direction from the President, make a mockery of what CEQ Chair Kathleen McGinty testified was the overriding purpose behind NEPA: ''It provides the federal government an opportunity for collaborative decision-making with state and local governments and the public.'' (September 26, 1996, Testimony of Kathleen McGinty before the Senate Energy Committee.)

The National Environmental Policy Act created CEQ, and the Council is charged with reviewing and appraising federal activities and determining whether they comply with the requirements and policies of the Act. (See, National Environmental Policy Act, Section 204.) Those requirements include development of environmental impact statements (EIA) or NEPA documents by federal agencies for major federal actions. Nearly all major federal actions—like designating land—require some level of NEPA documentation and process. NEPA environmental impact statements receive public notice, public comment, and public hearings. There was a conscious effort to use the Antiquities Act to avoid these NEPA requirements altogether in the designation of the Utah Monument.

Under the Antiquities Act, at the direction of the President, a monument may be established unilaterally by the President under limited circumstances. Using the Antiquities Act had several benefits to the Clinton-Gore Administration: (1) it is not necessary to work with Congress; (2) it is not necessary to comply with the Administrative Procedures Act's requirements to provide public notice or opportunity to be heard; and (3) it is not necessary to comply with NEPA requirements to involve the public or establish an administrative record on environmental impacts.

In short, the Antiquities Act was used to override the chance that the views of the people of Utah—and most importantly, elected Members of the Utah delegation—would influence the Utah Monument decision. In fact, the documents demonstrate that evading NEPA was a major internal rationale for using the Antiquities Act. This is a striking example of how the Clinton-Gore Administration manipulated the law to the advantage of the Clinton-Gore campaign for purposes of a ''Utah event''—an event that might make the insatiable desires of the environmentalist constituency happy for a moment. Alarmingly, the chief architects of the endeavor to evade NEPA were in the leadership of CEQ—the entity charged with overseeing NEPA. A draft memo dated July 25, 1996, from CEQ Chair Kathleen McGinty to the President revealed that use of the Act was a means to avoid NEPA: ''Ordinarily, if the (Interior) Secretary were on his own initiative to send you a recommendation for establishment of a monument, he would most likely be required to comply with NEPA and certain federal land management laws in advance of submitting his recommendation. But, because he is responding to your request for information, he is not required to analyze the information or recommendations under NEPA or other laws. And, because Presidential actions are not subject to NEPA, you are empowered to establish monuments under the Antiquities Act without NEPA review.''

Although this revealing paragraph was edited out of the final memo, it is alarmingly hypocritical that CEQ, the agency created by NEPA and charged with seeing that it is complied with, was clearly advising the President how to evade NEPA. The same July 25, 1996, draft, written by CEQ staffer Thomas Jensen, makes it clear, however, that this was the secret goal. Contrast this with the lofty public pronouncements from high-ranking CEQ officials about the importance that other government entities comply with NEPA: ''The lack of attention to NEPA's policies speaks to the tendency of our society to devalue those provisions of law that are not enforceable through the judicial system. One answer to the common complaint that we live in an overly litigious society is for individuals and agencies to take seriously such provisions as the national environmental policy set forth in section 101 of NEPA. Absent such a trend, interested individuals will naturally be skeptical of approaches that are not amendable to a legal remedy.'' Dinah Bear, General Counsel, CEQ, ''The National Environmental Policy Act: its Origins and Evolutions,'' Natural Resources and Environment, Vol. 10, No. 2 (Fall, 1995).

Contrast this with the testimony of CEQ Chair Kathleen McGinty to the Senate Energy and Natural Resources Committee within days of the designation (September 26, 1996): ''In many ways, NEPA anticipated today's call for enhanced local involvement and responsibility, sustainable development and government accountability. By bringing the public into the agency decision-making process, NEPA is like no other statute and is an extraordinary tribute to the ability of the American people to build upon shared values * * *''

''[NEPA] gives greater voice to communities. It provides the federal government an opportunity for collaborative decision-making with state and local government and the public * * * It should and in many cases does improve federal decision-making * * *

''As directed by NEPA, CEQ is responsible for overseeing implementation of the environmental impact assessment process * * *''

Either NEPA is an important statute worthy of implementation, as CEQ Chair McGinty states, or it is not. Either public, state, and local involvement is important, as CEQ Chair McGinty states, or it is not. Apparently, in the case of the Utah Monument designation, it was not important enough to implement NEPA because the end apparently justified the means.

What was important was selective application of NEPA for the convenience of the Clinton-Gore re-election effort. One of two conclusions exist as to why NEPA was not applied to the Utah Monument designation as it would ''ordinarily'' be applied (the words used by Ms. McGinty). The first possible conclusion is that the Utah Monument designation would not pass muster under NEPA. The second possible conclusion is that NEPA would not allow a decision before the 1996 Presidential election, and the designation was needed for the campaign. Otherwise, why not allow NEPA to ''bless'' Utah Monument?

Further, it is obvious from the documents that the Administration, in its zeal to use the Antiquities Act in an attempt to shield the Utah land grab from APA and NEPA, did not fully comply with the statutory requirements to justify using the Antiquities Act—namely that the President initiate the designation process. Ms. McGinty clarifies this point in a July 29, 1996, e-mail to Todd Stern of CEQ: ''the president will do the utah event on aug 17. however, we still need to get the letter (from the President to Interior Secretary Bruce Babbitt) signed asap. the reason: under the antiquities act, we need to build a credible record that will withstand legal challenge that: (1) the president asked the secretary to look into these lands to see if they are of important scientific, cultural, or historic value; (2) the secy undertook that review and presented the results to the president; (3) the president found the review compelling and therefore exercised his authority under the antiquities act. presidential actions under this act have always been challenged. they have never been struck down, however. so, letter needs to be signed asap so that secy has what looks like a credible amount of time to do his investigation of the matter. we have opened the letter with a sentence that gives us some more room by making it clear that the president and babbitt had discussed this some time ago.''

This e-mail clarifies the following points: (1) by July 29, 1996, not only had the decision to make the designation been made by the White House, the staff had already agreed to an announcement event (the date was eventually postponed) and (2) although this decision had already been made, a fake paper trail had to be carefully crafted to make it appear as if President had asked the Secretary to look into the matter and initiate the staff work. By that time, however, the staff work was already apparently underway. This is an alarming breach of responsibility at the top levels of DOI and CEQ.

In fact, CEQ's Tom Jensen, in a frantic July 23, 1996, e-mail, asks fellow CEQ staffer Peter Umhofer to help create the fake paper trail: ''Peter, I need your help. The following text needs to be transformed into a signed POTUS (President of the United States) letter ASAP. The letter does not need to be sent, it could be held in an appropriate office (Katie's [McGinty's] Todd Sterns?) but it must be prepared and signed ASAP. You should discuss the processing of the letter with Katie, given its sensitivity.''

The e-mail spells out the CEQ plan to create the letter to the Secretary and store it in its own White House files—never even really sending it to the Secretary—creating the false appearance that the President's letter had predated and prompted the staff work on Escalante. All the while, work on the monument designation was already underway within DOI to draw the necessary Antiquities Act papers to make the secretly planned designation. Without such a letter, the White House would have had to comply with NEPA just like the rest of America.

CAMPAIGN STYLE ''EVENT'' FOR A CAMPAIGN-MOTIVATED DECISION THAT VIOLATES THE INTENT OF THE ANTIQUITIES ACT

The documents show that the White House abused it discretion in nearly every stage of the process of designating the Grand Staircase-Escalante National Monument. It was a staff-driven effort, first to short-circuit a Congressional wilderness proposal, and then to help the Clinton-Core re-election campaign. The lands to be set aside, by the staff's own descriptions, were not threatened—and hence did not qualify for protection as a National Monument.

The decision was withheld from any public scrutiny or Congressional oversight—and Members of the Utah Congressional delegation were deceived as to its impending status until well after the decision had been made, and the campaign-style announcement event was only days away. The administrative and environmental hurdles that would normally accompany such an action were evaded by contorting a turn-of-the-century statute designed to protect Indian artifacts onto a 1.7-million-acre land grab. And finally, to justify use of this Act, and evasion of the requirements of NEPA—the CEQ's own enabling statute—the administrative record was toyed with to create the false impression that the President had requested the staff work before it had been conducted.

Indeed, a careful review of the Act and historic Presidential use of the Antiquities Act clarifies that the President's use of the Act was an abuse of discretion. The Antiquities Act of 1906 is an obscure Act that pre-dated the regulatory reforms that require public notice, analysis of environmental and economic impacts, and an opportunity for interested parties to be heard. Until Clinton used it in the 1996 Utah land grab, the Act had languished unused for nearly two decades.

The Act is designed to help protect architecturally and anthropologically unique artifacts from acquisition or destruction. It has primarily been used to protect antique artifacts, historic buildings, and relatively small parcels of rare geologic formations. It was emphatically not designed to be used to set aside massive chunks of western states. When the Act was created by Congress, the West was still being settled. Congress wanted to prevent valuable historic and geologic artifacts from being destroyed or carried off. The Act was necessary, according to the 1906 bill report, ''in view of the fact that the historic and prehistoric ruins and monuments on the public lands of the United States are rapidly being destroyed by parties who are gathering them as relics and for the use of museums and colleges, etc.'' Nowhere was a 1.7-million-acre land grab mentioned or contemplated. Nowhere in the subpoenaed documents obtained were there serious allegations of the 1.7 million acres being ''threatened'' in any way.

Indeed, the House debate over the bill records that, even nearly a century ago, western Members were concerned that the powers of this Act not be used to grab up huge quantities of land. One such Member, Mr. Stephens of Texas, only agreed not to object to consideration of the bill after being assured by the bill's proponent, Mr. Lacey, that such an outcome was not possible under the act, whose major focus was Indian artifacts:

Mr. LACEY. There has been an effort made to have national parks in some of these regions, but this will merely make small reservations where the objects are of sufficient interest to preserve them.

Mr. STEPHENS of Texas. Will that take this land off of market, or can they still be settled on as part of the public domain?

Mr. LACEY. It will take that portion of the reservation out of the market. It is meant to cover the cave dwellers and cliff dwellers.

Mr. STEPHENS of Texas. How much land will be taken off the market in the Western States by the passage of this bill?

Mr. LACEY. Not very much. The bill provides that it shall be the smallest area necesstry [sic] for the care and maintenance of the objects to be preserved.

Mr. STEPHENS of Texas. Would it be anything like the forest-reserve bill, by which seventy or eighty million acres of land in the United States have been tied up?

Mr. LACEY. Certainly not. The object is entirely different. It is to preserve these old objects of special interest in the Southwest, whilst the other reserves the forests and the water courses.

Mr. STEPHENS of Texas. I will say that that bill was abused. I know of one place where in 5 miles square you could not get a cord of wood, and they call it a forest, and by such means they have locked up a very large area in this country.

Mr. LACEY. The next bill I desire to call up is a bill . . . which permits the opening up of specified tracts of agricultural lands where they can be used, by which the very evil that my friend is protesting against can be remedied. . . .

Mr. STEPHENS of Texas. I hope the gentleman will succeed in passing that bill, and this bill will not result in locking up other lands. I have no objection to its consideration.—(40 Cong. Rec. H7888, June 5, 1906.)

So why take an old, obscure law designed to protect cliff dwellings or historic relics and manipulate it into a 1.7-million-acre land grab? The answer is clear from the attached documents: the ends (the political gain amongst environmental groups) justified the means (violating the purpose and intent of the Antiquities Act and NEPA to lock up the land).

The Clinton-Gore Administration's abuse of the Antiquities Act meant (1) it was not necessary to work with Congress and elected leaders from Utah; (2) it was not necessary to comply with the Administrative Procedures Act's requirements to provide public notice or opportunity to be heard; and (3) it was not necessary to comply NEPA's requirements of establishing an administrative record on environmental impacts.

The early e-mail traffic indicated a concern with establishing a paper trail from the President to the Secretary. As early as March 21, 1996, e-mail traffic between Linda Lance (Office of the Vice President) and Kathleen McGinty and others comment on several drafts of a letter that was to come from the President to Secretary Babbitt requesting information on lands in Utah eligible for monument designation. Solicitor Leshy was informed of the importance of past practice on this important legal point. ''As I recall, the advice we have given over the last couple of decades is that, in order to minimize NEPA problems on Antiquities Act work, it is preferable to have a letter from the President to the Secretary asking him for his recommendations. Here are my questions: . .

5. If the President signs a proclamation, and a lawsuit is then brought challenging lack of Secretarial NEPA compliance, could a court set aside the proclamation; i.e.' what is the appropriate relief?

Please give me your . . reactions by return e-mail, and keep this close.''—(April 24, 1996, e-mail from Sam Kalen to John Leshy and others.)

Even earlier, on March 20, 1996, Kathleen McGinty evinced concern that the paper trail needed to be created as quickly as possible to justify Interior's actions under the Antiquities Act: ''attached is a letter to Babbitt as we discussed yesterday that makes clear that the Utah monument action is one generated by the executive office of the president, not the agency. . . . ideally it should go tomorrow.''—(March 20, 1996, e-mail from Kathleen McGinty to Tom Jensen)

The lack of a Presidential letter making the request is critical. The NEPA requirements for notice, comment, and public process safeguards would ordinarily apply to a major federal action designating lands that were initiated outside of the Antiquities Act process. CEQ staff apparently knew this approximately six months before the actual decision that a record needed to be established with a request from the President to Secretary Babbitt. Time was of the essence, at least in the early part of 1996, before legislative activity on the Utah wilderness bill ended.

The record is clear that from start to finish, this was an abuse of Presidential discretion, designed to gain political advantage at the expense of the people of Utah—all the while keeping the decision behind closed doors for as long as possible.

HIGHLIGHTS OF SELECT UTAH MONUMENT RECORDS: A GLIMPSE OF THE ABUSE OF TRUST AND DISCRETION

As early as August 3, 1995, the Department of the Interior discussed the use of the Antiquities Act to withdraw land for the Utah Monument. In a memo to ''Raynor'' and ''Baum,'' from ''Dave' (all within the DOI Solicitor's Office) discussed the legal risks involved with DOI studying lands for national monument status. He noted that: ''To the extent the Secretary [of the Interior] proposes a national monument, NEPA applies. However, monuments proposed by the president do not require NEPA compliance because NEPA does not cover presidential actions. To the extent that the president directs that a proclamation be drafted and an area withdrawn as a monument, he may direct the Secretary of the Interior to be part of the president's staff and to undertake and complete all the administrative support. This Interior work falls under the presidential umbrella.''

This realization—that the administrative record must make it look like the idea came from the President, and not from an agency, in order to avoid NEPA compliance—is a dominant theme manifested throughout the documents. The idea was to create the false impression that this was an idea that came from the President, instead of from the Department of the Interior.

In a March 19, 1996, e-mail from Linda Lance (CEQ director for Land Management) to Tom Jensen (CEQ) and other CEQ staff, Ms. Lance states: ''attached is a letter to Babbitt as we discussed yesterday that makes clear that the Utah monument action is one generated by the executive office of the president, not the agency.''

This letter was never signed until August 7, 1996, and indeed may never been have been sent.[3] This is significant because it demonstrates an effort—beginning with DOI in 1995—to construct an Antiquities Act rationale to circumvent NEPA. All the while, meetings and work on the monument designation are proceeding within and between DOI, CEQ, and Department of Justice.

A draft letter from Kathleen McGinty on behalf of the President to Babbitt also makes it very clear that one early motivation behind the monument idea was to circumvent Congress's authority over wilderness designations, and specifically to control the Utah wilderness debate. The draft says: ''As you know, the Congress currently is considering legislation that would remove significant portions of public lands in Utah from their current protection as wilderness study areas. . . . Therefore, on behalf of the President I/we are requesting your opinion on what, if any, actions the Administration can and should take to protect Utah lands that are currently managed to protect wilderness eligibility, but that could be made

[3]Whether DOI ever actually received the Clinton letter is at issue because: (1) DOI was asked to provide all Utah Monument documents to the Committee, but never supplied the August 7, 1996, copy signed by President Clinton—that version was supplied to the Committee by the White House after the Chairman was authorized on September 25, 1997 to subpoena Utah Monument documents; and (2) this strategy—to create the letter as a paper trail but never send it—was discussed in White House e-mail traffic.

unsuitable for future wilderness designation if opened for development by Congress. . . . The President particularly seeks your advice on the suitability of such lands for designation as national monuments under the Antiquities Act of 1906.'' (March 19, 1996 e-mail from Linda Lance (CEQ director for Land Management) to Tom Jensen (CEQ) and other CEQ staff.)

This blatant disregard for Congressional authority over public lands is further evidence that staff was attempting to construct a path around NEPA and Congress.

On March 21, 1996, Linda Lance wrote another e-mail message to Kathleen McGinty responding to comments Ms. McGinty had made about the draft letter. She commented: ''I completely agree that this can't be pitched as our answer to their Utah bill. But I'm having trouble deciding where we go from here. If we de-link from Utah but limit our request for info to Utah, why? If we instead request info on all sites that might be covered by the antiquities act, we probably get much more than we're probably ready to act on, including some that might be more compelling than the Utah parks? Am I missing something or lacking in creativity? Is there another Utah hook? Whatdya think?''

This communication makes two things clear. First, in addition to helping the Clinton-Gore campaign, the purpose of the monument was to circumvent Congressional control over Utah lands. This was a direct response to proposed Utah wilderness legislation. Second, CEQ staff concluded that they had to come up with a facade, ''another Utah hook'', so their real motivations weren't exposed.

This e-mail message evinces CEQ knowledge that other lands were much better suited to monument designation. In fact, the next day—March 22, 1996—Linda Lance sent another e-mail to TJ Glauthier at OMB and Kathleen McGinty at CEQ that expounded on this problem. She stated that the real problem with drafting a request letter that singled out Utah lands was: ''the political consequences of designating these lands as monuments when they're not threatened with losing wilderness status, and they're probably not the areas of the country most in need of this designation.''

She concluded the e-mail message by prophetically questioning whether: ''the bad guys [will] . . . have the chance to suggest that this administration could use this authority all the time all over the country, and start to argue that the discretion is too broad?''

It is interesting to note that the Administration staff foresaw the kind of uproar the Utah Monument would cause. Ms. Lance recognized first, that people would see this as a blatant abuse of Presidential authority, and second that there may be cause to narrow the President's discretion under the Act. This process is currently underway with the successful passage in the House of the National Monument Fairness Act of 1997. Other amendments to the Antiquities Act and NEPA are currently under consideration by Members of the House Committee on Resources.

On March 25, 1996, Kathleen McGinty stated that she agreed with these doubts about the Utah Monument. In fact she was so convinced that the lands in question weren't in any real danger that she was ready to drop the whole project. She noted in an e-mail message to TJ Glauthier at OMB and Linda Lance at CEQ that: ''i'm increasingly of the view that we should just drop these utah ideas. we do not really know how the enviros will react and I do think there is a danger of ''abuse'' of the withdraw/antiquities authorities especially because these lands are not really endangered.''

A March 27, 1996, e-mail from Linda Lace at CEQ to Robert Vandermark at CEQ shows that DOI was trying to push the monument designation despite the lack of endangered lands. Lance stated: ''since i and i think others were persuaded at yesterday's meeting w/ interior that we shouldn't write off the canyonlands and arches monuments just yet, here's another try at a draft letter to Babbit to get this process started.''

It is clear the DOI was still advocating the monument despite the fact that CEQ was ready to drop the project. Even the DOI Solicitor's Office concluded that case law requires full compliance with NEPA's requirements when national monument proposals come out of DOI.

At this point the monument idea had been tailored to respond to the Utah wilderness bills in Congress. The areas in question were centered around Arches National Park and Canyonlands National Park—areas that were in no danger of losing protection. At this point no mention had been made about the Kaiparowits Plateau or saving the West from Andalex Coal mining.

The Kaiparowits Plateau was first mentioned by Tom Jensen at CEQ in an e-mail to Linda Lance, T. Glauthier (OMB) and Kathleen McGinty on March 27, 1996. He states that in the latest version of the proposed Clinton letter to Babbitt, he had added a reference to Glen Canyon National Recreation Area ''because KM [probably Kathleen McGinty] and others may want to rope in the Kaiparowits and Escalante Canyons regions if this package ultimately doesn't seem adequate to the President's overall purpose.''

By ''rop[ing] in the Kaiparowits,'' the Administration would effectively quash the Andalex Coal Mine—in spite of the fact that the NEPA process (already under way) was incomplete for the mine. Until that process was completed, it would be impossible to know whether the mine would have any negative impact on the environment. Unconcerned with the ultimate conclusion of these environmental impact studied, the Administration wanted Kaiparowits included so they could claim that there were some ''endangered'' lands to be ''protected'' by the monument.

It is worth noting that the Chairman and Subcommittee Chairman has requested the draft Andalex Coal mine EIS five times since March 1997 for purposes of committee oversight and legislative needs, but the Secretary has failed to provide the record as requested.

By April 1996, DOI was starting to get frantic about the idea that they were in violation of NEPA by continuing to go forward on the national monument idea without prior Presidential direction. In an April 25, 1996 e-mail, Sam Kalen of the DOI Solicitor's office noted this concern to Solicitor John Leshy and colleagues Dave Watts and Robert Baum: ''As I recall, the advice we have given over the last couple of decades is that, in order to minimize NEPA problems on Antiquities Act work, it is preferable to have a letter from the President to the Secretary asking him for his recommendations.''

As late as July 23, 1996, CEQ was still trying to get Bill Clinton to sign a letter to send to Babbitt. In an e-mail from Tom Jensen (CEQ) to Peter Umhofer at the White House, Mr. Jensen begged: ''I need your help. The following needs to be transformed into a signed POTUS letter ASAP. The letter does not need to be sent, it could be held in an appropriate office . . . but it must be prepared and signed ASAP.''

On July 25, 1996, Kathleen McGinty sent a memo to the President with an attached, suggested letter to Babbitt. This is also the first time, as far as we can tell from the documents, that CEQ mentions the Andalex coal mine as an excuse for the national monument.

By this time it is obvious that Interior had been working on the Utah Monument for quite some time. In fact,, three days later, on July 26, 1996, John Leshy sent a letter to University of Colorado law professor Charles Wilkinson asking him to draw up the actual proclamation. Included with the letter was a package of materials that Interior had put together on their monument proposal. Note that at this same time CEQ was still frantically trying to get the President to agree to send Babbitt a request to start looking at the lands in question. However, the DOI work was already underway. In this case, things were being done in exactly the reverse order.

On July 29, 1996, Kathleen McGinty sent an e-mail to Todd Stern at the White House pleading for the President to sign something. She noted that the ''letter needs to be signed asap so that [the] secy has what looks like a credible amount of time to do his investigation of the matter.''

The President finally signed the letter authorizing DOI to begin its work on August 7, 1996, but it seems that the final decision to create a Grand Staircase-Escalante National Monument had already been made—by someone—on or before July 29, 1996, as evidenced by the July 29 e-mail from Kathleen McGinty to Todd Stern: ''The President will do the Utah event on Aug 17.''

The documents show, however, that for some reason, the White House decided not to go ahead with the August 17 announcement date. On August 5, 1996, Kathleen McGinty sent a memo to Marcia Hale at the White House telling her that Leon Panetta wanted them to call several western Democrats to get their reactions to a possible monument proclamation. She noted that ''[t]he reactions to these calls, and other factors, will help determine whether the proposed action occur.'' She also emphasized that the whole thing should be kept secret, noting that ''any public release of the information would probably foreclose the President's option to proceed.'' It seems that at this point, the focus had shifted from pre-empting Congressional authority over Utah wilderness to creating a Presidential campaign event. The announcement had to be postponed until Democratic politicians could be consulted.

On August 14, 1996, Kathleen McGinty sent the President a memo outlining the possible places to have the photo-op announcement event. The three options discussed were (1) an oval office setting; (2) on the Utah lands themselves; or (3) at Jackson Hole, Wyoming. Ms. McGinty noted that Secretary Babbitt thought that the Utah option would be the most ''confrontational'' or ''in-your-face'' event. Ms. McGinty commented that she thought that all three options sounded good to her. Since the event was designed to be an election year photo-op, the Arizona setting became the choice.

In this memo Ms. McGinty reveals the real purpose of the monument: ''The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. In contrast to the Yellowstone ceremony, this would not be a ''feel-good'' event. You would not merely be rebuffing someone else's bad idea, you would be placing your own stamp, sending your own message. It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration.''

She also underscored the potential political benefits in key western states, as confirmed by the non-Utah Democratic politicians who had been consulted: ''In addition, the new monument will have particular appeal in those areas that contribute the most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area. This assessment squares with the positive reactions by Sen. Reid, Gov. Romer, and Rep. Richardson when asked their view on the proposal.''

Finally, she added that the Administration really didn't have anything to lose, as far as votes are concerned: ''Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances.''

The situation was painted as a no-lose political situation. Translation: The monument designation will help solidify Clinton's electoral base—whole those who will object to the monument, as in Utah, will oppose Clinton's re-election anyway. They did not matter.

The event was postponed further. On August 23, 1996, Kathleen McGinty wrote another memo to the President begging him to act on the monument soon. She stated, ''in any event, we need to decide this soon, or I fear, press leaks will decide it for us.''

The leak finally occurred. In a September 6, 1996, memo from Kathleen McGinty to the President, she informed him that ''the Washington Post is going to run a story this weekend reporting that the Administration is considering a national monument designation.'' She also told him that ''we are working with Don Baer and others to scope out sites and dates that might work for an announcement on this issue.''

After the September 7, 1996, Washington Post article, Senator Bennett wrote to Secretary Babbitt requesting the Administration not to take such a drastic step without time for significant public input. Secretary Babbitt responded on September 13—just five days before the event announcing the Utah Monument—telling him that nothing was imminent and that no decisions had yet been made.

It is important to note that two days earlier, on September 11, 1996, Tom Kenworthy, a Washington Post reporter, had confirmed the whole story—including the date, time, and exact location of the announcement event at the Grand Canyon. In a September 11 e-mail to Brian Johnson, CEQ's press spokesman, Kenworthy confirmed he had all the information he needed: ''south rim of the grand canyon, sept 18—be there or be square.'' While the Utah Monument designation was being concealed from the entire Utah Congressional delegation, it had already been revealed to the Washington press. This strategy worked to the Administration's advantage by encouraging press interest in the event, while effectively eliminating the possibility of Congress stepping in to stop the proposed action.

On September 18, 1996, President Clinton, standing on the South Rim of the Grand Canyon, with nature's splendor as his backdrop, finally got his photo-op. He told the nation that he was following in Teddy Roosevelt's footsteps, and that he was saving the environment from Dutch coal companies. It worked just like the Administration predicted. Bill Clinton locked up the environmental votes in the West and carried key western states like California, Arizona, and Nevada. Of course they lost Utah, but as Kathleen McGinty had predicted, Utahns are voters ''who, in candor, are unlikely to support the Administration under any circumstances.''

In the final analysis, the Utah Monument designation was all about politics. To achieve their political ends, the Clinton-Gore Administration contorted a century-old statute and evaded the environmental requirements they foist on others. The Administration took pains to see that no one knew about this decision until the last minute, even to the point of deceiving the entire Utah Congressional delegation—all so they could get a political photo-op out of the monument proclamation, and preclude any Congressional action that might stop the event. It comes as no surprise the announcement event was finally held not in Utah, but across the Grand Canyon in more hospitable Arizona. This was an abuse of discretion under the Antiquities Act and a violation of NEPA by the Clinton-Gore Administration.

August 3, 1995.

To: Raynor Baum.
Re: Antiquities Act.

Attached are some sample Pres proclamations. Some just designate the monument, other designate and withdraw the monument. It would follow that anwr could be designated—a prestige issue—without a further withdrawal of land.

We should meet. I think we have enough materials for a meeting with John. He was not looking for a paper, but rather a brief talk about the choices and legal risks.

Dave.

PRESIDENTIAL PROCLAMATIONS

1. The Antiquities Act of 1906 provides: ''The President . . . is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government . . . to be national monuments, and may reserve as part thereof parcels of lands, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. 16 U.S.C. §431.''

2. History: ''Many areas of the National Park System were originally established as national monuments under this act and placed under the care of the Department of the Interior to be administered by the National Park Service under the Service's Organic Act of 1916. 16 U.S.C. §1. The most recent proclamations were signed by President Carter and established various Alaska monuments, the predecessors to the national parks and preserves eventually established by the Alaska National Interest Lands Conservation Act.''

3. Analysis: When the president undertakes the preparation of a proclamation, the restrictions of the law must be carefully observed and documented. The lands must be federally owned or controlled. Private and state lands are excluded.

The area must be the smallest area compatible with management of the objects. Although broad discretion is vested in the president, the administrative record must reflect the rationale basis for the acreage.

Most areas of the National Park System were established because of objects of historic or scientific interest. Again, an administrative record must be established regarding the objects to be protected and their significance properly demonstrated.

4. Other Laws: The Federal Land Policy and Management Act, 43 U.S.C. §1701, does not preclude or restrain presidential proclamations, even though it has restrictions on other forms of public land withdrawals of areas over 5,000 acres. See 43 U.S.C. §1714(c)(1).

To the extent the Secretary proposes a national monument, NEPA applies. However, monuments proposed by the president do not require NEPA compliance because NEPA does not cover presidential actions. To the extent that the president directs that a proclamation be drafted and an area withdrawn as a monument, he may direct the Secretary of the Interior to be part of the president's staff and to undertake and complete all the administrative support. This Interior work falls under the presidential umbrella.

5. Litigation: ''I have attached the most recent case involving the Alaska monuments. The case is instructive and should be read, understood and followed. Careful observance of the administrative and institutional structures as well as a focused administrative record will enhance success in the court house.''

Record Type: Federal (all-in-1 mail).
Creator: Kathleen A. McGinty (McGinty, K.) (CEQ).
Creation Date/Time: 20-MAR-1996 08:01:40.12.
Subject: Utah letter to Babbitt.
To: Thomas C. Jensen.

Text: ''I don't have this document. But, I want to see it personally and clear off on it.'' thx.

ATTACHMENT 1

Att Creation Time/Date: 19-MAR-1996 19:02:00.00.
Att Bodypart Type: E.
Att Creator: CN=Linda L. Lance/O=OVP.
Att Subject: Letter to Babbit re monuments.
Att To: McGinty, K; Glauthier, T; Jensen, T; Bear, D; Fidler, S; Crutchfiel, J; Shuffield, A.

Text: ''Message Creation Date was at 19-MAR-1996 19:02:00''

Attached is a letter to Babbit as we discussed yesterday that makes clear that the Utah monument action is one generated by the Executive Office of the President, not the agency. Craig drafted and I edited.

It seems to me it could go from Katie and/or TJ rather than having to go through the clearance process for the pres. signature since time is a concern, but Dinah should sign off on that, and it could be done either way.

Also, do we know whether the canyonlands and arches areas we're considering would be affected by the Utah wilderness bill—see my question in bold on the attachment.

Katie and TJ, you should agree on how to sign this, and then one of your offices can just finalize and sent it out. Ideally it should go tomorrow. If you want to discuss, just yell.

ATTACHMENT 2

Att Creation Time/Date: 19-MAR-1996 19:01:00.00.
Att Bodypart Type: D.

Text: ''The following attachments were included with this message''.

ATTACHMENT 3

Att Creation Time/Date: 19-MAR-1996 19:01:00.00.
Att Bodypart Type: P.
Att Subject: Parksltr.

Text: ''Dear Secretary Babbitt,

The President has asked that we contact you to request information within the expertise of your agency. As you know, the Congress currently is considering legislation that would remove significant portions of public lands in Utah from their current protection as wilderness study areas. Protection

of these lands is one of the highest environmental priorities of the Clinton Administration.

Therefore, on behalf of the President I/we are requesting your opinion on what, if any, actions the administration can and should take to protect Utah lands that are currently managed to protect wilderness eligibility, but that could be made unsuitable for future wilderness designation if opened for development by Congress. [Do the canyonlands and arches areas fit this description? Are they threatened by the Utah wilderness bill? Is there a better way to describe the relevant lands?] The President particularly seeks your advice on the suitability of such lands for designation as national monuments under the Antiquities Act of 1906.

The President wishes to act to protect these lands as expeditiously as possible, particularly given the threat from pending congressional action. Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate action, please provide that information separately and as soon as possible.

Thank you for your assistance.

Katie and/or TJ.

Record Type: Federal (ALL 1–1 MAIL).
Creator: Thomas C. Jensen (JENSEN, T) (CEQ).
Creation Date/Time: 20–MAR–1996 08:26:53.99
Subject: Linda's park letter to babbitt.
To: Thomas C. Jensen.
Read: 20–MAR–1996 08:27:08.41.
To: Kathleen A. McGinty.

Text: Dear Secretary Babbitt,

The President has asked that we contact you to request information within the expertise of your agency. As you know, the Congress currently is considering legislation that would remove significant portions of public lands in Utah from their current protection as wilderness study areas. Protection of these lands is one of the highest environmental priorities of the Clinton Administration.

Therefore, on behalf of the President I/we are requesting your opinion on what, if any, actions the Administration can and should take to protect Utah lands that are currently managed to protect wilderness eligibility, but that could be made unsuitable for future wilderness designation if opened for development by Congress. [do the canyonlands and arches areas fit this description? are they threatened by the utah wilderness bill? is there a better way to describe the relevant lands?] The President particularly seeks your advice on the suitability of such lands for designation as national monuments under the Antiquities Act of 1906.

The President wishes to act to protect these lands as expeditiously as possible, particularly given the threat from pending congressional action. Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate action, please provide that information separately and as soon as possible.

Thank you for your assistance.

Katie and/or TJ.

Record Type: Federal (EXTE. .L MAIL).
Creator: CN=Linda L. Lance.
Creation Date/Time: 21–MAR–1996 18:36:00.00.
Subject: Re: KM's comments on yesterday's monument letter.
To: McGinty, K; :jensen, t, :bear, d; :crutchfiel, j; :glauthier, t.

TEXT: Message Creation Date was at 21–MAR–1996 18:40:00.

I completely agree that this can't be pitched as our answer to their utah bill. but i'm having trouble deciding where we go from here. if we delink from utah but limit our request for info to utah, why? if we instead request info on all sites that might be covered by the antiquities act, we probably get much more than we're probably ready to act on, including some that might be more compelling than the utah parks? am i missing something or lacking in creativity? is there another utah hook? whatdya think?

I'm getting concerned that if we're going to do this we need to get this letter going tomorrow. almost everything else is pretty much ready to go to the president for decision, although some drafting of the formal documents like pres. memos still needs to be done.

Thanks for you help.

Record Type: Federal (External Mail).
Creator: CN=Linda L. Lance.
Creation Date/Time: 22–Mar–1996 18:56:00.00.
Subject: redraft of president's babbitt letter and question.
To: Glauthier, T; McGinty, K; Jensen, T; Bear, D; Crutchfiel, J; Beard, B.

Text: Message Creation Date was at 22–Mar–1996 19:00:00.

Attached is a minimalist approach to the letter to Babbitt. Contrary to what justice may have suggested, I think it's important that he limit the inquiry to lands covered by the antiquities act, since that's the area in which he can act unilaterally. To make a broader request risks scaring people, and/or promising followup we can't deliver.

I realized the real remaining question is not so much what this letter says, but the political consequences of designating these lands as monuments when they're not threatened with losing wilderness status, and they're probably not the areas of the country most in need of this designation. Presidents have not used their monument designation authority in this way in the past—only for large dramatic parcels that are threatened. Do we risk a backlash from the bad guys if we do these—do they have the chance to suggest that this administration could use this authority all the time all over the country, and start to argue that the discretion is too broad?

I'd like to get your view, and political affairs, on this. Maybe I'm overreacting, but I think we need to consider that issue.

ATTACHMENT 1

Att Creation Time/Date: 22–Mar–1996 18:59:00.00.
Att Bodypart Type: D.
Text: The following attachments were included with this message.

ATTACHMENT 2

Att Creation Time/Date: 22–Mar–1996 18:59:00.00.
Att Bodypart Type: p.
Att Subject: Parkpres.

Text: Dear Secretary Babbitt,

It has come to my attention that there may be public lands in Utah that contain significant historic or scientific areas that may be appropriate for National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on Utah lands owned or controlled by the United States that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

WJC.

Record Type: Federal (External Mail)
Creator: McGinty
Creation Date/Time: 25–MAR–1996 13:21:00.00.
Subject: Re: redraft of president's Babbitt letter and question
To: T. J. Glauthier; Linda L. Lance; Jensen T.; Beard, D.; Crutchfield, J.; Beard, B.

Text: I'm increasingly of the view that we should just drop these Utah ideas. We do not really know how the enviros will react and I do think there is a danger of ''abuse'' of the withdraw/antiquities authorities especially because these lands are not really endangered.

Record Type: Federal (All-in-1 Mail).
Creator: Thomas C. Jensen (JensenXT) (CEQ)
Creation Date/Time: 25–MAR–1996 13:29:44.93.
Subject: Potus letter re-do
To: Linda L. Lance; T. J. Glauthier; James Craig Crutchfield; Bruce D. Beard; Dinah Bear; Kathleen A. McGinty.

Text: Attached is my re-do of the draft potus letter to Babbitt. I've added the reference to Glen Canyon NRA for two reasons: first, because some the lands we're reviewing next to Canyonlands are more proximate to GCNRA. Second, because KM and others may want to rope in the Kaiparowits and Escalante Canyons regions (which are adjacent to GCNRA) if this package ultimately doesn't seem adequate to the President's overall purpose. Call if you've got any questions.

You're doing a great job.

TOM.

ATTACHMENT 1

Att Creation Time/Date: 25–MAR–1996 13:25:00.00.
Att Bodypart Type: p.
Att Creator: Thomas C. Jensen.
Text: Dear Secretary Babbitt,

It has come to my attention that there may be public lands adjacent to Glen Canyon National Recreation Area, Canyonlands National Park and Arches National Park in Utah that contain significant historic or scientific areas that may be appropriate for protection through National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on lands owned or controlled by the United States adjacent to Glen Canyon National Recreation Area, Canyonlands National Park or Arches National Park that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

WJC.

Record Type: Federal (All-in-1 mail).
Creator: Kathleen A. McGinty (McGinty K) (CEQ).
Creation date/time: 27 Mar 1996 15:49:36.19.
Subject: pls discuss this with tom.
To: Robert C. Vandermark

Text: Rob, I want to see this letter and comment. pls coordinate with tom so we send one set of comments back to Linda.

ATTACHMENT 1

ATT bodypart Type: E
ATT: Creator: CN+Linda L. Lance/O+OVP
ATT Subject: another babbitt letter draft
To: McGinty, K; Jensen, T+Bear, D; Crutchfield, J; Beard B; Glauther T

Text: Message Creation Date was at 27 Mar 1996 12:40:00.

since i and i think others were persuaded at yesterday's meeting w/ interior that we shouldn't write off the canyonlands and arches monuments just yet, here's another try at a draft letter to babbitt to get this process started. if this looks ok, i'd like to run it by justice before it goes out.

tj was going to try to get offices together to discuss the monuments issue, and we need to do that. but since we're now looking at 4/9 as a possible announcement date, i'd propose getting this letter agreed on and getting a decision memo to the president just on sending the letter to interior. even if we don't ultimately do the monument, it won't hurt to have this letter go out and have interior formally return info to us. we'll never have this ready by 4/9 if a letter doesn't go soon. according to justice, the info justice has seen so far isn't an adequate admin record, so interior will have some work to do.

i'll try to draft a short decision memo to the president on sending this letter (for tj and katie's signature??) so that you all can look at it today. let me know if you have problems w/ this approach, or comments on the letter.

ATTACHMENT 2

ATT Creation time/date: 27 Mar 1996 12:41:00.00
ATT Bodypart Type D

Text: The following attachments were included with this message:

ATTACHMENT 3

ATT Creation time/date 27 Mar 1996 12:41:00.00
ATT Bodypart Type: p
ATT Subject: Parkpres

Text: Dear Secretary Babbitt,

It has come to my attention that there may be public lands adjacent to Canyonlands and Arches National Parks in Utah that contain significant historic or scientific areas that may be appropriate for protection through National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on lands owned or controlled by the United States adjacent to Cayonlands or Arches National Parks that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

WJC.

Record Type: Federal (External mail).
Creator: CN=Linda L. Lance.
Creation date/time: 29-MAR-1996 19:00:00.00.
Subject: Monday meeting w/Interior and question.
To: Jensen T; McGinty K; Galauthier T

Text: Message Creation Date was at 29-MAR-1996 19:01:00.

Tom and I agreed that the fastest way to come to closure on remaining monument/Utah issues is for he and I to go to Interior on Monday to meet with Anne Shield, NPS folks, and solicitors office. Anne has agreed to schedule something for 2 p.m. Monday in the secretary's conference room. Tom I really hope that works for you, or that you can rearrange to attend. If not, let me know what will work for you on Monday p.m.

If Katie or TJ want to attend and it helps to move it here, we can do that, but I think we need to get with them soon. We'll push them on new wilderness inventory and Kaparowitz/Escalante.

The question I have for you guys is why does Anne react so negatively to the idea of having George Frampton there? I told her I'd left a message for him in Colorado, and thought he should be at the meeting, and she gave me a lecture about how he wouldn't have the necessary info, hadn't been involved, she had no idea when he'd be back in D.C., we need to have Destry there, etc.

Is there a reason for me to insist on scheduling this when Frampton can be there? Does he have a perspective on this that they don't? Is there some friction between him and the NPS folks that have been involved? Let me know. Thanks.

COUNCIL ON ENVIRONMENTAL QUALITY,
WASHINGTON DC, MARCH 29, 1996.

MEMORANDUM FOR THE PRESIDENT
FROM: KATHLEEN A. MCGINTY
RE: ATTACHED LETTER TO SECRETARY BABBITT FOR YOUR SIGNATURE

I. ACTION-FORCING EVENT

As you know, we are putting together a package of national park protection actions for your consideration that, if you approve, may be announced at an event on April 9. As part of that initiative, and in response to the threat to Utah wilderness lands that was posed by the recently-defeated Republican parks bill, we have been reviewing Utah public lands to ensure that we are doing everything possible to provide appropriate protection to those lands. We have focused particularly on public lands that contain historic or scientific resources or are threatened by development.

It has come to my attention that there may be federally-owned lands adjacent to Glen Canyon National Recreation Area, Canyonlands National Park and Arches National Park in Utah that may warrant protection as national monuments. Statutory authority to issue a proclamation declaring public lands to be national monuments is available only to the President, who cannot delegate such authority.

Case law interpreting this authority has further held that the President can request information from his advisors on the suitability of certain lands for such designation, but that the action must be initiated by the President, not an advisor. For that reason, it is necessary that you formally request Secretary Babbitt to provide you with such information before we can obtain the necessary background to consider such designation on the merits. We need to do that as soon as possible so that this designation can be completed in time for a possible April 9 announcement. The attached letter makes that request.

II. BACKGROUND ANALYSIS

The Antiquities Act of 1906 provides the President with discretionary authority to declare by public proclamation objects of historic or scientific interest that are on lands owned or controlled by the Government to be national monuments. Only an Act of Congress can disestablish a monument.

Reservation as a national monument generally offers protection to the area comparable to that of a National Park, including closure to future mineral leasing claims. The agency managing the monument can grandfather existing uses of the land, such as grazing permits.

No final decision about the designation of Utah lands as national monuments can be made without additional material from the Department of Interior. However, currently available information indicates that significant Bureau of Land Management acreage adjacent to each of the areas addressed in the letter contains historic and scientific objects of importance, including numerous archaeological sites, Indian rock art, geological formations and wildlife habitat.

III. RECOMMENDATION

I recommend that you sign the attached letter requesting information on Utah lands from Secretary Babbitt

IV. DECISION

—Approve —Approve as amended —Reject —No action.

THE WHITE HOUSE,
Washington, March 29, 1996.

Hon. BRUCE BABBITT,
Secretary of the Interior, Washington, D.C.

DEAR BRUCE: It has come to my attention that there may be public lands adjacent to Glen Canyon National Recreation Area, Canyonlands National Park and Arches National Park in Utah that contain significant historic or scientific areas that may be appropriate for protection through National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on lands owned or controlled by the United States adjacent to Glen Canyon National Recreation Area, Canyonlands National Park or Arches National Park that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

Sincerely,

BILL CLINTON.

Record type: Federal (All-in-1 IL).
Creator: Kathleen A. McGinty (MCGINTY—K) (CEQ).
Creation date/time: 3–APR–1996 18:04:45.13.
Subject: parks meeting tomorrow
To: Linda L. Lance
To: Thomas C. Jensen
To: Lisa Guide

Text: For the meeting tomorrow at 3, I believe we need a short summary (1–2 pp) of all of the parts of the package. Thx. I see this as a major decision-making meeting. On the Utah pieces; on the overall package; on potus involvement. By the way Leshy said to me today that he thought there was no way they could get info on Kaipairowitz (sp?) and that Escalante was a maybe.

Record Type: Federal (All in-1 Mail).
Creator: James Craig Crutchfield (Crutchfield J) (OMB).
Creation date/time: 3-Apr-1996 10:09:39.50.
Subject: Parks Initiative update.
To: T.J. Glauthier; Ron Cogswell; Bruce D. Beard; Marvis G. Olfus; Linda L. Lance; Thomas C. Jensen.

Text: According to Linda Lance, the Parks Initiative is not currently on the President's schedule and no event is likely before the President's mid-April international trip. May/June is a more realistic timeframe. Interior may not be happy about this, but they

created a false urgency by citing a pending Gingrich parks proposal. (It now appears that the only imminent Republican proposal is the Senate Omnibus lands bill, which is on hold because of Utah wilderness.)

Other key points:

Sufficiently Presidential? Linda and Tom Jensen met on Monday with Interior to address skepticism from the West Wing about whether the Initiative is worthy of a Presidential event. (Ann Shields grumbled that it would be Presidential if it retained the tax proposals.) They discussed three new candidates for National Monument designation in Utah (Kiparowitz, Grand Gulch, and Escalante), each with pros and cons, and Interior agreed to review these options further. Interior/NPS complained that their park proposal was morphing into a Utah proposal, but Tom and Linda dismiss this complaint.

POTUS letter to Babbitt was sent up for signature on Friday (3/31), but no word from W.H. Clerk on whether it was signed. By requesting Babbitt to provide information on lands in Utah for possible designation as National Monuments, this letter would establish the needed Administrative record to defend use of the Antiquities Act. The final letter was revised to reference other public lands around Glen Canyon NRA, leaving open the possibility for adding the sites noted above.

From: Sam Kalen 4/25/96 11:42AM
To: John Leshy, Dave Watts, Robert Baum.
cc: Edward Cohen.
Subject: Re: Antiquities Act.

As I recall, the advice we have given over the last couple of decades is that, in order to minimize NEPA problems on Antiquities Act work, it is preferable to have a letter from the President to the Secretary asking him for his recommendations. Here are my questions:

1. Is that right? Does it have to be in writing?

2. What is the optimum timing for such a letter—before we start any work?

3. Does the letter have to be public (is it foiable at any time)? Could the President claim executive privilege or is there some other basis for withholding the letter, at least until the Secretary forwards recommendations?

4. Does the letter have to be specific geographically; e.g., ''give me recommendations on use of the Act in Oregon'' or ''on BLM lands in western Oregon'' or is ''nationwide—anywhere on lands managed by agencies under your jurisdiction'' OK?

5. If the President signs a proclamation, and a lawsuit is then brought challenging lack of Secretarial NEPA compliance, could a court set aside the proclamation; i.e., what is the appropriate relief?

Please give me your off-the-top-of-the-head reactions by return e-mail, and keep this close. Thanks.

I don't know what the Dept. has recommended or written in the past, but my recollection (and I will check) is that the issue was raised in connection with Alaska v. Carter and I think the court indicated that EIS not needed when President asks for recommendation. And that case was decided well before more recent NEPA law—e.g., NAFTA case, which further suggests that Secretary's response to President would not be an ''action'' under NEPA; of course, one could also argue a Douglas County type analogy (status quo exception for designation of monument if NEPA even applied to Executive and thus surely status quo exception for the recommendation on such designation). Additionally, to make it even less like any action under NEPA, the President's request could be for a list of areas in a certain region that DOI already has indicated are WSAs, ACECs, etc. As for FOIA, couldn't we argue deliberative process exception until designation—with harm being that disclosure would prompt nuisance type activities in the area. sam.

Record type: Federal (All-in-1 Mail).
Creator: Thomas C. Jensen (Jensen, T) (CEQ).
Creation date/time: 23–Jul–1996 15:30:42.34.
Subject: Potus letter re: Utah.
To: Peter G. Umhofer
CC: Kathleen A. McGinty.

Text: Peter, I need your help.

The following text needs to be transformed into a singed POTUS letter ASAP. The letter does not need to be sent, it could be held in an appropriate office (Katie's? Todd Stern's?) but it must be prepared and signed ASAP.

You should discuss the processing of the letter with Katie, given its sensitivity.

Dear Secretary Babbitt, it has come to my attention that there may be public lands in the general area of Glen Canyon National Recreation Area in Utah that contain significant historic or scientific values that may be appropriate for protection through National Monument status under the Antiquities Act of 1906.

As I stated when I raised this with you in conversation some weeks ago, I would ask that you provide to me any information available to your Department on lands owned or controlled by the United States in the general area of Glen Canyon National Recreation Area in Utah that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest. Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

BC.

Record, type: Federal (all -1 Mail).
Creator: Thomas C. Jensen (Jensen—T) (CEQ).
Creation date/time: 25-JUL-1996 11:40:06.21.
To: Peter G

Text: Peter, Here's a redraft of the POTUS cover memo regarding the POTUS letter to Babbitt on Utah. I've rewritten it to meet suggestions from Todd Stern. These changes may also address questions that Wes raised.

Tom

ATTACHMENT 1

Att Creation time/date:25-JUL-1996 11:38:00.00
ATT Bodypart Type:p
ATT Creator; Thomas C. Jensen

Text:

Memorandum to the president.
From: Kattie McGinty.
Subject: Attached letter to Secretary Babbitt.

We have prepared for your signature the attached letter to Interior Secretary Babbitt. The letter will serve as a critical piece of the administration record if, as we have discussed, you decide to designate certain lands in southern Utah as national monuments under the Antiquities Act of 1906.

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used numerous times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capital Reef, Cedar Breaks, Dinosaur, National Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act.

The purpose of the attached letter is to request from Secretary Babbitt information on federal lands in southern Utah that are suitable for monument designation. The letter serves to engage the Secretary in his role as executive staff to you.

Ordinarily, if the Secretary were on his own initiative to send you a recommendation for establishment of a monument, he would most likely be required to comply with NEPA and certain federal land management laws in advance of submitting his recommendation. But, because he is responding to your request for information, he is not required to analyze the information or recommendations under NEPA or the other laws. And, because Presidential actions are not subject to NEPA, you are empowered to establish monuments under the Antiquities Act without NEPA review.

The text of the letter is modeled after the letter sent by President Carter to the Interior Department seeking information on lands in Alaska suitable for monument designation. Based on the department's response and recommendations, President Carter set aside approproximately 26 million acres as national monuments. The legality of the President's action was challenged by monument opponents, but was upheld by the federal courts. The letter to Interior was specifically cited by the courts as a principal basis for their finding of legality. We recommend that you sign the letter.

Washington, DC, July 25, 1996.

Memorandum to the President.
From: Kathleen A. McGinty.
Re: Attached letter to Secretary Babbitt.

We have prepared for your signature the attached letter to Secretary of the Interior Bruce Babbitt. The letter will serve as a critical piece of the administrative record if, as we have discussed, you decide to designate certain lands in southern Utah as national monuments under the Antiquities Act of 1906.

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used numerous times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, Natural Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act.

The purpose of the attached letter is to request from Secretary Babbitt information on federal lands in southern Utah that are suitable for monument designation. The lands in question represent a unique combination of archaeological, paleontological, geologic, and biologic resources in a relatively unspoiled natural ecosystem. Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park will be studied: the Grand Staircase, Kaiparowits Blateau, and Escalante Canyon region.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas—rare examples of pristine plant

ecosystems that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

The Kaiparowits Plateau includes world class paleontological sites, including the best and most continuous record of Latie Cretaceous terrestrial life in the world. The area includes thousands of significant archaeological sites, including the remnants of at least three prehistoric Indian cultures. The Kaiparowits includes the most remote site in the lower 48 states.

The Escalante Canyon region, includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

These lands were at the heart of the recent legislative battle over Utah wilderness. They are, in sum, much of what the parties were fighting over. Environmentalists value the area for its astonishing beauty, remoteness, and ecological integrity. Development interests want to tap the coal resources of the Kaiparowits Plateau and, through road construction open now wild areas to commercial use.

The Kaiparowits Plateau lies in the center of the area. Two companies hold leases to mine federal coal there. One company is working with Interior to surrender its Kaiparowits leases in exchange for rights to coal elsewhere in Utah. The other lease holder, a Dutch-owned coal company with plans to ship coal to Asia, has rebuffed Interior's offers to pursue a trade. Coal development on the Kaiparowits would damage the natural, cultural, and historic values of the entire area. Monument designations would not block the proposed coal mine, per se, but would help in a variety of ways to pressure the Dutch company to surrender its leases in exchange for coal elsewhere.

Should you decide, based on the Secretary's recommendations, to designate one or more national monuments in the area, your action will be widely and vigorously supported by national environmental groups and advocates. They will be stunned and delighted by the boldness and scope of the action. There will be significant public support in those areas in which most visitors to southern Utah reside, including California, Colorado, Arizona and the Salt Lake City area. National print media strongly supported the Administration's pro-Utah wilderness stance and can be expected to support monument designations.

Utah's congressional delegation and governor will be angered by the action. CEQ is in consultation with the Counsel's office to identify measures to reduce adverse effects on matter within the control of the Senate Judiciary Committee, chaired by Senator Orrin Hatch (R-UT). Republicans are likely to characterize the action as an aspect of the so-called ''War on the West.''

The text of the attached letter is modeled after the letter sent by President Carter to the Department of the Interior seeking information on lands in Alaska suitable for monument designation. Based on the department's response and recommendations, President Carter set aside approximately 26 million acres as national monuments. The legality of the President's action was challenged by monument opponents, but was upheld by the federal courts. The letter to Interior was specifically cited by the courts as a principal basis for their findings of legality.

We recommend that you sign the letter seeking information and advice from Secretary Babbitt.

THE WHITE HOUSE,
Washington, July 24, 1996.

Hon. Bruce Babbitt,
Secretary of the Interior, Washington, DC.

DEAR BRUCE: As I said in conversation with you some weeks ago, it has come to my attention that there may be public lands in the general area of Glen Canyon National Recreation Area in Utah that contain significant historic or scientific values that may be appropriate for protection through National Monument status under the Antiquities Act of 1906.

I would like for you to provide me any information available to your Department on lands owned or controlled by the United States in the general area of Glen Canyon National Recreation Area in Utah that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond to this request as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

Sincerely,

Record Type: Federal (All-in-1 Mail).
Creator: Kathleen A. McGinty (MCGINTY—K) (CEQ).
Creation date/time: 29-JUL-1996 09:31:39.65.
Subject: Utah letter.
To: Todd Stern.

Text: wanted to just reiterate what I said about the timeliness of the letter because I was worried that, on first iteration, I may have confused you.

The president will do the Utah event on Aug 17. However, we still need to get the letter signed ASAP. The reason: under the antiquities act, we need to build a credible record that will withstand legal challenge that: (1) the president asked the secy to look into these lands to see if they are of important scientific, cultural or historic value; (2) the secy undertook that review and presented the results to the president; (3) the president found the review compelling and therefore exercised his authority under the antiquities act. presidential actions under this act have always been challenged. they have never been struck down, however.

So, letter needs to be signed ASAP so that secy has what looks like a credible amount of time to do his investigation of the matter. we have opened the letter with a sentence that gives us some more room by making clear that the president and babbitt had discussed this some time ago.

Many thanks.

[Document 36]

August 5, 1996.

Memorandum to Marcia Hale.
From: Kathleen A. McGinty.
Re: Utah Event Calls.

Leon Panetta asked that I prepare talking point for you to use in making calls to certain western elected officials regarding the proposed Utah event.

My notes indicate that Leon wanted you to call Governor Roy Romer, Governor Bob Miller, former Governor Mike Sullivan, former Governor Ted Schwinden, Senator Harry Reid, Senator Richard Bryan, and Representative Bill Richardson to test the waters and gather their reactions.

The reactions to these calls, and other factors, will help determine whether the proposed action occur. If a final decision has been made on the event, and any public release of the information would probably foreclose the President's option to proceed.

I would be happy to speak with you about this or provide any additional information you may require. If I am unavailable, Wesley Warren and Tom Jensen of my staff are prepared to assist you.

Attachment.

August 14, 1996.

Memorandum to the President.
From: Katie McGinty.
Subject: Proposed Utah Monument Designation and Event.

INTRODUCTION AND BACKGROUND

This memo responds to your request yesterday for additional information on the proposed event at which you would announce designation of certain BLM lands in Utah as a national monument.

In brief, the current proposal is that you should use your authority under the Antiquities Act of 1906 to establish the ''Grand Staircase-Escalante National Monument,'' a new national monument covering approximately 1.7 million acres of federal land in Utah managed by the Interior Department's Bureau of Land Management.

At your direction, the Secretary of the Interior, in cooperation with the Department of Justice, has prepared the analyses and documents that are required to support creation of the proposed new national monument. A draft version of those materials is attached for your information. Final versions should be transmitted to the White House today and should be ready for execution within 24 hours.

OPTIONS FOR ANNOUNCEMENT

Three alternate events have been discussed to frame announcement of your action. Some advisors believe that the announcement should take place in a formal Oval Office-type setting, so as to emphasize the presidential character of the action. This course would allow the most scheduling flexibility.

Other advisors recommend that you make the announcement on or near the lands to be covered by the monument designation. The area is very scenic and would offer great, unique visuals, but the country is rough and remote with difficult logistics. The first attached sheet of photos shows views of or from potential event sites on lands covered by the new monument designation. The landscape is sere, but strikingly beautiful. Because of good air quality, views extend beyond 100 miles. Morning and afternoon light bring out the land's colors best. August weather is hot, probably windy, with a chance of afternoon and evening thunderstorms.

The closest town with an airport capable of handling jet aircraft is Page, Arizona, a small town located on the Arizona-Utah border next to Lake Powell and Glen Canyon Dam. Travel time from the Page airport to the most likely event locations would be roughly 15 minutes by helicopter or 1 hour by four-wheel drive vehicle. The National Park Service maintains significant enforcement and other staff nearby at Glen Canyon National Recreation Area and Grand Canyon National Park and can be called upon with short notice to assist with event logistics. Based on our experience with the proposed ''condor release'' event (which would have occurred in the same general area), I estimate that an appropriate event could be organized with roughly 48–72 hours lead time. Secretary Babbitt notes that this option would have the most confrontational or ''in-your-face'' character of the three.

The third option would be to hold the event in Jackson Hole. The logistics and scheduling would be much simpler than the Utah site option and, like the Oval Office option, would not present the same

confrontational aspect associated with an event in Utah.

For my part, I believe that any of the three options will adequately serve the purposes underlying establishment of a new monument.

PURPOSE OF THE UTAH EVENT

The purpose of the new monument designation would, in general, be to provide additional protection for scenic public lands with high scientific and historical value. More specifically, monument designation would grant the Interior Department additional leverage to forestall a proposed coal mine in the area.

The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. In contrast to the Yellowstone ceremony, this would not be a ''feel-good'' event. You would not merely be rebuffing someone else's bad idea, you would be placing your own stamp, sending your own message. It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration.

Establishment of the new monument will be popular nationally in the same way and for the same reasons that other actions to protect parks and public lands are popular. The nationwide editorial attacks on the Utah delegation's efforts to strip wilderness protection from these and other lands is a revealing recent test of public interest in Utah's wild lands. In addition, the new monument will have particular appeal in those areas that contribute most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon, and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Pheonix-Tucson area. This assessment squares with the positive reactions by Sen. Reid, Gov. Romer, and Rep. Richardson when asked their views on the proposal.

Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances. It would draw fire from interests who would characterize it as anti-mining, and heavy-handed Federal interference in the West. Gov. Miller's concern that Nevada's sagebrush rebels would not approve of the new monument is almost certainly correct, and echoes the concerns of other friends, but can be offset by the positive response in other constituencies.

THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used more than 100 times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, Natural Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act. Since World War II, every President except Presidents Nixon, Reagan, and Bush have established national monuments.

The attached memorandum from Secretary Babbitt recommends that approximately 1.7 million acres of federal land managed by the Bureau of Land Management in southern Utah be designated as the ''Grand Staircase-Escalante National Monument.''

The lands in question represent a unique combination of archaeological, paleontological, geologic, and biologic resources in a relatively unspoiled natural ecosystem. Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park would be covered by the new monument: the Grand Staircase, Kaiparowits Plateau, and the Escalante Canyon region.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas—rare examples of pristine plant ecosystems that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

The Kaiparowits Plateau includes world class paleontological sites, including the best and most continuous record of Late Cretaceous terrestrial life in the world. The area includes thousands of significant archaeological sites, including the remnants of at least three prehistoric Indian cultures. The Kaiparowits includes the most remote site in the lower 46 states.

The Escalante Canyon region includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

EFFECTS OF MONUMENT DESIGNATION

There is very little current human use of the area proposed for monument designation and, 'with the exception of the proposed coal mine discussed below, current and anticipated uses are generally compatible with protection of the area as a monument and would not be affected.

The proposed proclamation would apply to only federal lands. Private and state-owned parcels would be excluded from the monument.

The new monument would be subject to valid existing rights, but would preclude new mining claims in the area.

The proclamation would depart from prior practice and would not reserve federal water rights. This approach on water rights reflects the judgment that an assertion of water rights would invite unnecessary controversy. Some of the objects to be protected by the monument designation do not require water. There is very little water in the area, and what water there is probably has already been claimed under state law. As a part of the study described below, the Secretary will determine whether to seek water rights.

Finally, the proclamation would direct the Secretary of the Interior to prepare a management plan for the area within three years. Although the precise outcome of the three-year planning process cannot be forecast, the Secretary believes that current uses of the area, including grazing, hunting, fishing, off-road vehicle use and similar activities would generally not be affected at current levels or in current areas of use.

The principal substantive effect of the monument designation will be on a proposed coal mine on the Kaiparowits Plateau.

The Kaiparowits Plateau lies in the center of the area that would be covered by the monument designation. Two companies hold leases to mine federal coal there. One company is working with Interior to surrender its Kaiparowits leases in exchange for rights to coal elsewhere in Utah (a situation quite similar to the case of the New World Mine). The other lease holder, Andalex Resources, a Dutch-owned coal company with plans to ship coal to Asia, has rebuffed Interior's offers to pursue a trade.

Coal development on the Kaiparowits would damage the natural values of the entire area. Monument designations would not block the proposed coal mine, per se, but would help in a variety of ways (described at length in the Secretary's attached memo, to persuade Andalex to surrender its leases in exchange for coal elsewhere.

This step—reducing or eliminating the risk of coal mining on the Kaiparowits—would represent an immense victory in the eyes of envrionmental groups and, based on the editorial written on the subject during the Utah wilderness bill debate, would be widely hailed in the media.

Washington, DC, August 14, 1996.

Memorandum for the President.

From: Kathleen A. McGinty.

Re: Proposed Utah Monument Designation and Event.

INTRODUCTION AND BACKGROUND

This memo responds to your request yesterday for additional information on the proposed event at which you would announce designation of certain Bureau of Land Management (BLM) lands in Utah as a national monument.

In brief, the current proposal is that you should use your authority under the Antiquities Act of 1906 to establish the ''Grand Staircase-Escalante National Monument,'' a new national monument covering approximately 1.7 million acres of federal land in Utah managed by the BLM of the Department of the Interior (DOI).

At your direction, the Secretary of the Interior, in cooperation with the Department of Justice, has prepared the analyses and documents that are required to support creation of the proposed new national monument. A draft version of those materials is attached for your information. Final versions should be transmitted to the White House today and should be ready for execution within 24 hours.

OPTIONS FOR ANNOUNCEMENT

Three alternate events have been discussed to frame announcement of your action. Some advisors believe that the announcement should take place in a formal Oval Office-type setting, so as to emphasize the presidential character of the action. This course would allow the most scheduling flexibility.

Other advisors recommend that you make the announcement on or near the lands to be covered by the monument designation. The area is very scenic and would offer great, unique visuals, but the country is rough and remote with difficult logistics. The first attached sheet of photos shows views of or from potential event sites on lands covered by the new monument designation. The landscape is sere, but strikingly beautiful. Because of good air quality, views extend beyond 100 miles. Morning and afternoon light bring out the land's colors best. August weather is hot, probably windy, with a chance of afternoon and evening thunderstorms.

The closest town with an airport capable of handling jet aircraft is Page, Arizona, a small town located on the Arizona-Utah border next to Lake Powell and Glen Canyon Dam. Travel time from the Page airport to the most likely event locations would be roughly 15-minutes by helicopter or 1 hour by four-wheel drive vehicle. The National Park Service maintains significant enforcement and other staff nearby at Glen Canyon National Recreation Area and Grand Canyon National Park and can be called upon with short notice to assist with even logistics. Based on our experience with the proposed

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The third option would be to hold the event in Jackson Hole. The logistics and scheduling would be much simpler than the Utah site option and, like the Oval Office option, would not present the same confrontational aspect associated with an event in Utah.

For my part, I believe that any of the three options will adequately serve the purposes underlying establishment of a new monument.

PURPOSE OF THE UTAH EVENT

The purpose of the new monument designation would, in general, be to provide additional protection for scenic public lands with high scientific and historical value. More specifically, monument designation would grant DOI additional leverage to forestall a proposed coal mine in the area.

The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. In contrast to the Yellowstone ceremony, this would not be a ''feel-good'' event. You would not merely be rebuffing someone else's bad idea, you would be placing your own stamp, sending your own message. It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration.

Establishment of the new monument will be popular nationally in the same way and for the same reasons that other actions to protect parks and public lands are popular. The nationwide editorial attacks on the Utah delegation's efforts to strip wilderness protection from these and other lands is a revealing recent test of public interest in Utah's wild lands. In addition, the new monument will have particular appeal in those areas that contribute most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon, and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area. This assessment square with the positive reactions by Senator Harry Reid (D–NV), Governor Roy Romer (D–CO), and Representative Bill Ricahrdson (D–NM) when asked their views on the proposal.

Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances. It would draw fire from interests who would characterize it as anti-mining, and heavy-handed Federal interference in the West. Governor Bob Miller's (D–NV) concern that Nevada's sagebrush rebels would not approve of the new monument is almost certainly correct and echoes the concerns of other friends, but can be offset by the positive response in other constituencies.

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The attached memorandum from Secretary Babbitt recommends that approximately 1.7 million acres of federal land managed by the BLM in southern Utah be designated as the ''Grand Staircase-Escalante National Monument.''

The lands in question represent a unique combination of archaeological, paleontological, geologic, and biologic resources in a relatively unspoiled natural ecosystem. Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park would be covered by the new monument: the Grand Staircase, Kaiparowits Plateau, and the Escalante Canyon region.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas—rare examples of pristine plant ecosystems that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

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The Escalante Canyon region includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

EFFECTS OF MONUMENT DESIGNATION

There is very little current human use of the area proposed for monument designation and, with the exception of the proposed coal mine discussed below, current and anticipated uses are generally compatible with protection of the area as a monument and would not be affected.

The proposed proclamation would apply to only federal lands. Private and state-owned parcels would be excluded from the monument.

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The proclamation would depart from prior practice and would not reserve federal water rights. This approach on water rights reflects the judgment that an assertion of water rights would invite unnecessary controversy. Some of the objects to be protected by the monument designation do not require water. There is very little water in the area, and what water there is probably has already been claimed under state law. As a part of the study described below, the Secretary will determine whether to seek water rights.

Finally, the proclamation would direct the Secretary of the Interior to prepare a management plan for the area within three years. Although the precise outcome of the three-year planning process cannot be forecast, the Secretary believes that current uses of the area, including grazing, hunting, fishing, off-road vehicle use and similar activities would generally not be affected at current levels or in current areas of use.

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The Kaiparowits Plateau lies in the center of the area that would be covered by the monument designation. Two companies hold leases to mine federal coal there. One company is working with DOI to surrender its Kaiparowits leases in exchange for rights to coal elsewhere in Utah (a situation quite similar to the case of the New World Mine). The other lease holder, Andalex Resources, a Dutch-owned coal company with plans to ship coal to Asia, has rebuffed DOO's offers to pursue a trade.

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This step—reducing or eliminating the risk of coal mining on the Kaiparowits—would represent an immense victory in the eyes of environmental groups and, based on the editorials written on the subject during the Utah wilderness bill deb, would be widely hailed in the media.

Record Type: Federal (All-in—Mail).
Creator: Kathleen A. McGinty (McGinty—KA1) (CEQ).
Creation date/time: 23–Aug–1996 16:29:34.89.
Subject: Utah—weekly report.
To: Peter G. Umhofer.
CC: Thomas C. Jensen

Text: As you know, a draft national monument declaration has been prepared for your review by the Department of Interior. Per your request, the Department studied the area and found it incredibly rich archaeologically (anasasi ruins) and ecologically (unique and pristine natural resources); already in Federal ownership, and therefore, suitable for monument designation under the Antiquities act. In addition, Interior also reports that currently, a foreign coal company called Andalax Resources is pushing to open a coal mine in the heart of the area. While a monument designation is not capable of stopping the mine (all existing property rights and uses would be held harmless), it would make it more difficult for the mining company to secure approval of their request for a 22 mile road that they would propose to run across federal land, again in the heart of this area. In this regard, the situation is very similar to where we were last year on Yellowstone—mine proposed; mine requesting use of federal land. Under these circumstances last year, your exercised authority to withdraw surrounding land from mining activity. Like the monument designation here, that action did not stop the Yellowstone mine, but it did erect significant barriers to it.

It was originally proposed that you would announce the monument during your vacation. Work was pushed to meet that deadline. I am very concerned now that, since we did not move forward at that time, but significant work was done, news of this will leak out. I strongly recommend that we move forward with this initiative. Others are concerned that it will ignite a ''War on the West'' backlash, and indeed, the Utah delegation—including Bill Orton—will be displeased to say the least. However, the attached editorial from the Salt Lake Tribune decries Dole's ''Whine on the West'', and in many other places in the west (CO, CA, WA, OR, NM) this would be extremely well received.

In any event, we need to decide this soon, or I fear, press leaks will decide it for us.

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, August 23, 1996.

Memorandum for the President.
From: Kathleen A. McGinty.
CC: Leon Panetta.
Re: CEQ Weekly Report.

UTAH

As you know, a draft national monument declaration has been prepared for your review by the Department of the Interior (DOI). Per your request, DOI studied the area and found it incredibly rich archaeologically (anasasi ruins) and ecologically (unique and pristine natural resources). Because the area is already in Federal ownership, it is therefore suitable for monument designation under the Antiquities Act.

DOI also reports that a foreign coal company called Andalex Resources currently is pushing to open a coal mine in the heart of the area. While a monument designation is not capable of stopping the mine (all existing property rights and uses would be held harmless), it would make it more difficult for the mining company to secure approval of their request for a 20 mile road that they would propose to run across federal land, again in the heart of this area. In this regard, the situation is very similar to where we were last year on Yellowstone—a proposed mine requesting use of federal land. Under these circumstances last year, you exercised authority to withdraw surrounding land from mining activity. That action did not stop the Yellowstone mine, but it did erect significant barriers to it as would the monument designation here.

It was originally proposed that you would announce the monument during your vacation. Work was pushed to meet that deadline. I am very concerned now that, since we did not move forward at that time, but significant work was done, news of this will leak out. I strongly recommend that we move forward with this initiative. Others are concerned that it will ignite a ''War on the West'' backlash, and indeed, the Utah delegation—including Congressman Bill Orton (D-UT)—will be displeased to say the least. However, the attached editorial from the Salt Lake Tribune decries Dole's ''Whine on the West'', and I believe that in many other places in the west (CO, CA, WA, OR, NM) this initiative would be extremely well received.

In any event, we need to decide this soon, or I fear, press leaks will decide it for us.

EXECUTIVE OFFICE OF THE PRESIDENT,
September 6, 1996.

To: Elisabeth Blaug, Thomas C. Jensen, Brian J. Johnson,
From: Kathleen A. McGinty, Council on Environmental Quality.
Subject: Wkly report graphs.

UTAH

We learned late today that the Washington Post is going to run a story this weekend reporting that the administration is considering a national monument designation. I understand that there are no quotes in the story, so it is based only on ''the word about town.'' I have called several members of Congress to give them notice of this story and am working with political affairs to determine if there are Democratic candidates we should alert. We are neither confirming nor denying the story; just making sure that Democrats are not surprised.

Meanwhile, we are working with Don Baer and others to scope out sites and dates that might work for an announcement on this issue.

COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, DC, September 6, 1996.

Memorandum for the President.
From: Kathleen A. McGinty.
CC: Leon Panetta.
Re: CEQ Weekly Report.

UTAH

We learned late today that the Washington Post is going to run a story this weekend reporting that the Administration is considering a national monument designation. I have called several members of Congress to give them notice of this story and am working with Office of Political Affairs to determine if there are Democratic candidates we should alert. We are neither confirming nor denying the story; just making sure that Democrats are not surprised. This could lead the Utah delegation to try efforts such as a rider on the Interior Appropriations bill next week to prevent you from taking any such action.

Meanwhile, we are working with Don Baer and others to scope out sites and dates that might work for an announcement on this issue.

Creator: Brian J. Johnson (Johnson, BJ) (CEQ).
Creation: Date/Time: 10–Sep–1996 17:07:20.19.
Subject: Get a load of this from Kenworthy
To: Thomas C. Jensen, Kathleen A. McGinty, Wesley P. Warren, Shelley N. Fidler.
Text:

ATTACHMENT 1

Att Creation Time/Date: 10–Sep–1996 14:36:00.00
Att Bodypart Type: E.
Att Creator: Kenworthy, Tom.
Att Subject: utah, again.
Att To: smtp: johnson.

Brian: So when pressed by Mark Udall and Maggie Fox on the Utah monument at yesterday's private ceremony for Mo, Clinton said: ''You don't know when to take yes for an answer.'' Sounds to me like it's going forward. I also hear Romer is pushing the president to announce it when he's in Colorado on Wednesday. Give me a heads up if its imminent—I can't write another story saying it's likely to happen, but it would be nice to know when it's going to happen for planning purposes—Tom Kenworthy.

ps—thanks for the packet.

ATTACHMENT 2

Att Creation Time/Date: 10–Sep–1996 17:01:00.00
Att Bodypart type: D
Text:
RFC–822–headers:

Record Type: Federal (All-in-1 Mail).
Creator: Shelley N. Fidler (Fidler—S) (CEQ).
Creation Date/Time: 10–Sep–1996 17:09:13.8.
Subject: Re: Get a load of this from Kenworthy.
To: Brian J. Johnson, Thomas C. Jensen, Kathleen A. McGinty, Wesley P. Warren.

Text: why didn't he write about MO that would have been useful and nice and well deserved. what a creep.

Creator: Thomas C. Jensen (JENSEN—T) (CEQ).
Creation date/time: 10–SEP–1996 17:09:24.95.
Subject: re: Get a load of this from Kenworthy.
To: Brian J. Johnson; Kathleen A. McGinty; Wesley P. Warren; Shelley N. Fidler.

Text: Wow. He's got good sources and a lot of nerve.

Record type: Federal (External mail).
Creator: kenworthyt.
Creation date/time: 11–SEP–1996 22:22:00.00.
Subject: utah.
To: johnson.

Text: south rim of the grand canyon, sept 18—be there or be square

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ATTACHMENT 1

ATT Creation time/date: 11–SEP–1996 22:22:00.00
ATT Bodypart type: D

COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, DC, September 16, 1996.

Memorandum to the President.
From: Kathleen A. McGinty.
Subject: Utah Monument Proclamation.

The Secretary of the Interior prepared the attached materials in response to your request to him for information on federal lands in southern Utah that should be granted national monument protection under the Antiquities Act.

In brief, the Secretary proposes that you use your authority under the Antiquities Act to establish by proclamation the ''Grand Staircase-Escalante National Monument.'' The monument would cover approximately 1.7 million acres of federal land in south central Utah managed by the Interior Department's Bureau of Land Management (BLM).

National and Utah environmental groups have pressed Congress to designate approximately 5.7 million acres of BLM land in Utah as ''wilderness areas,'' a potentially more restrictive land use category than ''national monument'' status. The proposed Grand Staircase-Escalante National Monument would be welcomed by the environmental groups as a tremendous step toward protecting the areas they care most about, including the areas facing the greatest development threat from proposed coal mining. They will, however, continue to press their case for the much more stringent and larger wilderness designations.

The proposed national monument includes approximately 400,000 acres of BLM lands that environmental advocates want to see protected, but that have not been proposed for formal wilderness protection because the acres contain features that render them legally ineligible for wilderness status. The lands are essentially the interstices between large blocks of wilderness-eligible lands. They contain resources that qualify monument status, as described in the Secretary's memo to you.

Since news of the proposed monument leaked to the Los Angeles Times and Washington Post last week, we have received strong endorsements for this proposal from many quarters, including national and western newspapers, Democratic Senate and House candidates in Montana, Idaho, and Colorado, western Democratic Senators and House Members, key authorizing and appropriating committee members, western governors, and numerous environmental and conservation groups. The Utah delegation, including Democratic Congressman Bill Orton, Governor Leavitt, and the NRA have spoken out in strong opposition.

In this regard, much of the opposition from Utah has been premised on concern over the monument's possible impact on school revenues. We have compiled a considerable body of information on this issue. Based on CEQ, OMB, and Interior Department analysis of reports prepared by various State of Utah agencies, it appears that the proposed Andalex/Smoky Hollow Mine would generate less than $75,000 per year for Utah school expenses. Utah's annual education budget is

approximately $1.6 billion. The criticism based on ''lost'' school income appears to be wildly overstated.

Secretary Babbitt anticipated the level and type of opposition we have now heard directly. The Secretary has proposed that, in establishing the monument, you take several steps to reduce short- and long-term opposition from Utah's pro-development interests and rural residents. First, he proposes that BLM, rather than the National Park Service, manage the monument. Second, he proposes that you expressly disclaim any reservation of federal water rights for the monument. Third, the Secretary has proposed monument boundaries that exclude all developed areas and state park lands. Fourth, the Secretary has proposed that the new management regime for the monument area be defined through a multi-year public hearing and involvement process.

White House and Interior Department representatives have met or conversed extensively over the past week with members of the Utah delegation and the Governor's office. Based on those communications, we recommend that the monument proclamation disclaim any effect on management of grazing, hunting, or fishing activities. In other words, those activities would be governed by current law, notwithstanding the monument designation.

In addition, we recommend that you direct the Secretary to pursue negotiations with the State of Utah to trade state-owned parcels within the boundaries of the monument for federal lands of equal value elsewhere in Utah, thus ensuring that the state interests are protected. This direction would come in the form of a separate memo to the Secretary, not in the proclamation.

The draft proclamation submitted by the Secretary has been amended to reflect the hunting/fishing/grazing point described in the preceding paragraph.

Record type: Federal (External Mail).
Creater: kenworthy.
Creation: Date/time:16-Sep–1996 12:30:00.00.
Subject: utah.
To: johnson.

Text: Nice touch doing the Escalante Canyons announcement on the birthday of Utah's junior senator! Give me a call if you get a chance.

ATTACHMENT 1

Att Creation time/date: 16-Sep–1996 12:32:00.00
Att Bodypart type: D

THE SECRETARY OF THE INTERIOR,
Washington, September 13, 1996.

Hon. ROBERT F. BENNETT,
U.S. Senate,
Washington, DC.

DEAR SENATOR BENNETT: I am responding to your letter I received yesterday regarding the proposal to create a new national monument in southern Utah. While no final decision on establishing a monument has been made, your letter nonetheless raises valid concerns, and I do believe they merit full discussion.

You ask, first, whether the proposed monument would carry with it a reserved water right, and if so, what effect it might have on water users, the Colorado River Compact, and various proposed water development projects. These are questions of very legitimate concern, and I look forward to discussing them further with you, Congressman Orton, Governor Leavitt, and other interested parties.

Your second group of questions involves the effect of establishment of a national monument on state lands within its boundaries. We certainly share your concern that the state public school system not be impaired by establishment of a national monument. As you know, the issue of how to deal with state inholdings scattered across federal lands managed to protect nationally significant values is a common problem throughout the west. Many national parks, national forests, national monuments, and other projected federal areas contain state inholdings. The most common way to address these is for the state and the federal government to agree upon an exchange, whereby the state agrees to trade its inholding in return for public lands of equal value outside the protected area. I look forward to discussing this further with you.

Your final set of questions involves the status of existing mineral leases and rights in the area under consideration as a national monument. The only mineral interests of any significance I am aware of in the area are existing federal coal leases issued many years ago. Most of these leases have expired of their own terms, or been relinquished, or are in the process of being cancelled pursuant to law. Two leases or lease groups remain. One is held by Pacificorp, and we are currently in very serious discussions with that company to relinquish its lease on the Kaiparowits Plateau in exchange for bidding credits on federal coal of equal value elsewhere.

The remaining lease interest is held by Andalex Resources, Inc. This company has applied for a number of permits or other authorizations required by federal and state law in order to open a mine on the Kaiparowits Plateau. A draft environmental impact statement is currently being prepared on the proposal. Should a national monument be established, and should the company continue to seek permission to move forward with its proposal, a determination would have to be made whether the Andalex proposal is inconsistent with the purposes of the monument, and if so, whether and to what extent the company has valid existing rights that would have to be addressed.

I appreciate the opportunity I've had to discuss these issues with you, with Congressman Orton, and with Governor Leavitt. I look forward to further discussions in the very near future.

Sincerely,

Bruce Babbitt.

LET'S GET SERIOUS ON THE WAR ON DRUGS AND ILLEGAL ALIENS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. TRAFICANT. Mr. Speaker, earlier this year I introduced legislation, H.R. 805, that authorizes the use of military personnel to assist the Immigration and Naturalization Service [INS] and the U.S. Customs Service in their border patrol functions. It passed in the House overwhelmingly as an amendment to the fiscal year 1998 Defense authorization bill was pulled during the deliberation of the conference report. Yesterday I introduced legislation that expands on that important piece of legislation.

According to the official estimates, between 5 and 7 tons of illegal drugs are smuggled across our borders every day. In addition, thousands of aliens are snubbing Federal immigration laws and crossing our borders illegally daily. Federal agencies are complaining of being outmatched in both manpower and firepower by the drug lords and their henchmen. Law enforcement personnel are increasingly becoming targets of the violence. Barry R. McCaffrey, chief of the White House Office of National Drug Control Policy, received a death threat from the Tijuana cartel during an August tour of the border. Michael T. Horn, the Drug Enforcement Administration's chief of international operations, identifies the Mexican drug cartels as the ''greatest law-enforcement threat facing the United States today.''

According to the United Nations, drug trafficking has become a $400 billion-a-year business worldwide. Illegal drugs are bigger business than all exports of automobiles and about equal to the worldwide trade in textiles. More than 13 million U.S. residents buy illicit drugs and use them at least once per month, spending each year between $50 to $100 billion. The addictive nature of these drugs, their high price and their illegality may play a role in as much as half the street crime in the United States. Drug related criminal activity is seen as one of the main reasons for the substantial growth of the U.S. prison population and over one million persons are arrested each year on drug related charges in the United States.

Without question, the border should be patrolled by the Border Patrol. But the reality is, the INS is having an extremely difficult time hiring the 1,000 Border Patrol agents a year mandated by Congress. Currently, we have about 6,600 Border Patrol agents. The White House recently stated that 20,000 Border Patrol agents are needed to property patrol the border. We are not even close to meeting that figure.

My new legislation authorizes the Secretary of Defense to assign members of the Armed Forces, under certain circumstances and subject to certain conditions, to assist the INS and Customs in monitoring and patrolling our borders to stop the ever increasing flow of illegal aliens and illegal narcotics. It also establishes a training program for troops being deployed on our borders that would ensure that military personnel receive the proper training in border security procedures. It provides for specific information to be disseminated regarding issues affecting law enforcement in the areas of deployment. It directs a civilian law enforcement officer to accompany any deployment of troops to search, seize, and/or arrest any person who is suspected of criminal activity. And finally, it directs the Attorney General or the Secretary of the Treasury to notify the Governor and local officials of any State where military troops will be deployed and what type of tasks will be performed.

Our country is being invaded, and what better way to quell this invasion and protect our national security than utilizing the U.S. military. The military has the technology and manpower that we desperately need on our borders right now. Something must be done.

Mr. Speaker, the American people have spoken loud and clear. They do not want an open door policy when it comes to illegal aliens and drugs. Our national sovereignty is at stake. This is a good bill that makes sense. I urge my colleagues to join me in this fight and cosponsor this important piece of legislation.

HONORING F. DALE KUENZLI, EXECUTIVE DIRECTOR OF THE MICHIGAN BEAN COMMISSION

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to F. Dale Kuenzli, executive director of the Michigan Bean Commission since 1993, who has announced his intention to retire in December. As the third executive to lead the commission since its 1965 inception, Dale has led the Michigan Bean Commission in a professional and enthusiastic manner during the past 4 years. He has worked tirelessly with local, State, Federal, and international officials to open markets to Michigan bean growers. He is known around the world as a brilliant spokesperson for Michigan farmers, with a talent for deciphering the complex language of agribusiness and financial markets. Not just a ''beansmith,'' as he is often called, Dale is also a well-rounded agribusiness person with a keen political acumen and a dedication to our vision for the future of Michigan's farm families. Dale is also known for his loyalty to his family and to his other passion, the Michigan State Spartans. Dale is also to be honored for his contributions to the apple industry, given his avid consumption of what is estimated to be a pound and half of apples every day. On the occasion of his retirement, we bestow upon F. Dale Kuenzli our highest esteem for his accomplishments, and wish him success in his future endeavors.

HONORING F. DALE KUENZLI, EXECUTIVE DIRECTOR OF THE MICHIGAN BEAN COMMISSION

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. BARCIA. Mr. Speaker, I join with my colleague, Mr. CAMP, in paying tribute to a gentleman who is legendary as an ambassador of our State's agriculture industry. As a skilled trader, an articulate emissary, and a singular man of honor and integrity, he has been a blessing for our bean growers, as well as an individual that will be difficult to fully replace. It has been my good fortune to have worked with Dale on many projects of importance to the dry bean growers of my district and State. I want to offer my personal thanks for all that he has done, and my best wishes for all that the future holds for him. Thank you, Mr. Speaker.

THE SALE INCENTIVE COMPENSATION ACT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. FAWELL. Mr. Speaker, Leronda Lucky is an industrious yellow page advertising salesperson for BellSouth in Ohio. She wants to be paid on commission and work as many hours as possible. ''My primary motivation,'' she says, ''to work long and hard hours is so that I can earn as much money as possible to support my family, save money for my children's education, and save for retirement.''

Unfortunately, Leronda must work as an hourly employee and is limited to working 9 to 5 each day, 40 hours per week and being paid overtime for hours over 40. ''My base pay and the prospect of overtime earnings do not motivate me,'' says Leronda. ''My choice is to be paid on a commission basis. Also my clients do not necessarily have 9 to 5 work hours. I need the flexibility to determine when I need to meet with the customers on their hours.''

Leronda Lucky's story is an example of how 1938-era workplace laws do not necessarily fit the workers or the workplace of the 1990's. Such antiquated laws end up hurting the very workers they were intended to help.

The 1938 Fair Labor Standards Act set the workweek at 40 hours and required that any additional hours worked be paid at one and a half times the base hourly wage. The law made workers hourly employees unless they met certain criteria to exempt them. Salesperson who work away from their employer's premise, in the law referred to as ''outside salesmen,'' were exempt, allowing them to work as many hours as they wished, when they wished, and for a commission if they so choose. This exemption was granted on an idea that professional salespeople work irregular hours in response to their customers' needs and they generally work on commission as opposed to an hourly wage.

In 1938, these salespeople were outside, communicating with their customers by traveling from town to town and visiting customers in person. In 1997, with the advent of fax machines, computers, e-mail, the Internet, modems, and advanced telecommunications, the once outside sales force has moved inside. These inside salespeople can work at one location—at an office, or even at home. Communications, paying for goods, and other transactions can be done electronically. The once outside sales force is today a more efficient, effective and profitable inside sales force. Without the 1938 law, these inside salespeople could earn wages that greatly exceed the amounts that are otherwise available through hourly pay rates plus overtime.

The House Subcommittee on Workforce Protections recently held hearings on this outdated law. Several inside salespeople, including Leronda Lucky, testified on the need to reform the 1938 Fair Labor Standards Act to make it fit the workplace of the 1990's. And so yesterday, along with my colleague on the subcommittee, Congressman ROBERT E. ANDREWS, I introduced H.R. 2888, the Sales Incentive Compensation Act, to make this area of the law adapt to today's work force.

H.R. 2888, THE SALES INCENTIVE COMPENSATION ACT

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. ANDREWS. Mr. Speaker, many American workers today earn their living by selling goods and services to customers across the continent or across the globe. Such salespeople increasingly find that their paycheck is determined by how well they produce and how much they sell, because they are paid in part according to a bonus or commission system. Salespeople who can substantially increase their salary by earning more commissions ought to be allowed to work longer hours and perform their jobs more effectively, in order to make more money. Unfortunately, current law keeps them from earing as much as they could.

I am proud to join with my colleague, Congressman HARRIS FAWELL, to introduce H.R. 2888, the Sales Incentive Compensation Act. This common-sense legislation will give fear greater flexibility to salespeople and their employees, by allowing salespeople to choose to work harder in order to earn higher commissions. And it ensures security and fairness for all workers, by precluding abuses that would force employees to work longer hours without substantial reward.

Our bill provides flexibility to meet the demands of the workplace and the market. Today's customers demand goods and services at different times and in different time zones. Today's information economy allows a more flexible sales force to make sales around the clock. The Sales Incentive Compensation Act gives employees the flexibility to adjust their schedule in order to earn more money in commission, rather than limiting their earning potential. For instance, a working mother may find it easier to make sales calls from home, while the employer benefits from a more productive sales force.

In addition, our bill guarantees security and protection for workers. The Sales Incentive Compensation Act ensures that lower earning workers cannot be exploited or denied the protections of time-and-a-half overtime for work beyond a 40-hour week. The bill establishes a stringent test which guarantees that salespeople cannot be exempted from the wage and hour laws unless they receive a substantial minimum salary and are guaranteed the opportunity to earn significant commissions or incentive-based compensation. Employees cannot be exempted from the 40-hour work week unless they meet this test.

The Sales Incentive Compensation Act is based on the principles of fairness and opportunity. Under our bill, salespeople must be given the opportunity to continue earning commissions if they choose to work longer hours and are successful in making more sales. The rate of bonus pay for extra sales must be as good, or better, than the rate for the salesperson's minimum sales. Employees would have an incentive to work harder, and employers would be required to pay them a fair commission for each additional sales that they make. Thus, both businesses and salespeople will share in the increased profit and productivity that will be created when H.R. 2888 becomes law. I urge my colleagues to support this sensible and crucial legislation.

NATO INFRASTRUCTURE FAIR SHARE ACT

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. SANDLIN. Mr. Speaker, I rise today to introduce legislation that will ensure our allies

pay their fair share to the North Atlantic Treaty Organization Security Investment Program [NSIP]. My legislation will reduce the amount the United States contributes to NSIP to $140 million in each of the next 3 fiscal years. This bill will save taxpayers $177 million

NSIP is a program designed to improve the transportation and infrastructure of NATO member nations. Under the fiscal year 1998 military construction appropriation bill signed by the President on September 30, 1997, the U.S. contributes $153 million to NSIP. This amount was appropriately reduced from the fiscal year 1996, $161 million and fiscal year 1997, $172 million contributions. The United States still pays a disproportionate amount into this account, however, while receiving minimal benefit to our own infrastructure.

The NSIP supports projects and activities listed by NATO as capability packages, standalone projects, urgent requirements, and minor works. The projects are then placed in the following categories: authorized works, intra-theater, and trans-Atlantic force mobility; surveillance, reconnaissance, and intelligence systems; logistics support and re-supply; lines of communications control, training support, and exercise facilities; nuclear capabilities; and political-military consultation. These programs are important and I strongly advocate a prepared military. But why do we continue to spend money to expand logistic support and re-supply in Europe when we continue to downsize military depots in this country? Depots are necessary to provide the logistic support and re-supply efforts essential to defend our Nation from a military attack.

Why do we continue to spend money on transportation infrastructure to enhance force mobility in Europe while we continue to cut funding to our own Nation's transportation infrastructure? The Interstate Highway System was conceived so the U.S. military would be able to move forces and equipment from coast to coast. Highway capital investment per 1,000 vehicle mile of travel in the United States decreased by 17 percent from 1985–95, while travel increased by 37 percent. The United States needs an additional $15 billion annually to maintain current conditions on our roads and bridges and another $33 billion annually to improve conditions and performance. We must find alternate sources of income to improve our roads in this country.

I am an advocate of a strong national defense and have fought to increase money in the Defense budget and to fund the weapons programs essential to our military readiness. However, at a time when we are closing military bases and putting American soldiers out of work, it is wrong for American taxpayers to continue paying billions of dollars annually to benefit wealthy nations such as England, Germany, and France while these same countries use their capital to compete with us in international markets. Our country has for too long assumed the lion's share of the cost of defending our allies. These countries do not have war-torn, war-tattered economies. These countries are tough, shrewd international competitors. They have strong economies that give them the capability to pay for their own defense.

I believe NATO is one of the organizations that precipitated our victory in the cold war. As we prepare to expand NATO to include the emerging democracies of Poland, the Czech Republic, and Hungary, we must realize that expanding NATO will not be easy and will in fact be a rather expensive operation. I advocate expanding NATO and do not believe we should make these countries, which are feeling the growing pains of the change from a Communist economic system to a capitalist system, pay any more than they can afford. However, we must ask our wealthy European allies to pay an appropriate portion of the cost of expanding the infrastructure that is needed to defend these nations.

When I first came to Congress, I pledged to work to enact legislation ensuring Texas receives an equitable share of transportation funds. This goal has yet to be achieved. However, while we continue to work toward that goal domestically, we can also work to see that U.S. taxpayers receive some benefit from every dollar they spend that is earmarked for infrastructure. This bill aims to do just that by decreasing the amount of money the United States contributes to the NSIP. For every dollar that Texas contributes to the national highway trust fund, it receives approximately $.77 cents in return. Massachusetts, on the other hand, receives $2.13 for each dollar it invests. Connecticut has a nearly 187 percent return on its dollar. Clearly, Texans already contribute transportation funds to other States. Why should we be asked to contribute transportation funds to other countries as well? My constituents do not receive adequate funds to repair our own roads, but they are asked to pay for the roads of people abroad.

America's infrastructure needs are great. With the heavy increase in the volume of traffic due to the implementation of NAFTA, we in Texas are more aware of that fact than most. The increase in the number of trucks on our highways has left many of our roads with potholes that have rendered them almost impassable. However, while the potholes remain along highways in east Texas, the taxpayers see their hard earned income going not to improve the Federal highways they use, but to build roads and highways in Germany, France, and England.

We have seen a tremendous amount of support for burden sharing in recent years. This support was evident when the House agreed to the conference report this year on H.R. 1119, the National Defense Authorization Act. That bill authorizes appropriations for fiscal year 1998 and 1999 military activities of the Department of Defense and prescribes military personnel strengths for those fiscal years. The bill contains important provisions on burden sharing. Section 1221 instructs the President to step up efforts to increase burden sharing from nations with whom we have military relations by having them take one or more of the following actions: increase their annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1998; increase the amount of military assets they contribute to multinational military activities; increase the amount of annual budgetary outlays of foreign assistance; and in nations with U.S. military bases, increase their financial contributions to the payment of the U.S. military non-personnel costs.

The Defense authorization bill also includes a sense-of-Congress resolution dealing with the costs of enlarging NATO. Section 1223 contains a section that states: ''It is the sense of Congress that the analysis of the North Atlantic Alliance of the military requirements relating to NATO enlargement and of the financial costs tothe Alliance of NATO enlargement will be one of the major factors in the consideration by the Senate of the ratification of instruments to approve the admission of new member nations to the Alliance and by Congress for the authorization and appropriation of the funding for the costs associated with such enlargement.''

The burdensharing proposals that have been passed in recent years have proved to be an effective way of encouraging wealthy foreign countries to begin paying their fair share for their own defense. Legislation in 1989 called upon Japan to increase its share of the cost of stationing United States troops there. This amendment has led to billions of dollars in savings for the U.S. taxpayer since then, including over $3.7 billion last year. Japan now contributes 78 percent of the non-personnel cost of stationing United States troops there.

It is essential that we continue to stress the importance of burdensharing principles. Annually, we spend about 4 percent of our gross national product on defense while France spends a mere 2.5 percent and Germany a paltry 1.5 percent. As we have seen with the Japanese, if we apply pressure to nations capable of sharing in the cost of their defense, we will save United States tax dollars without removing one United States troop from foreign soil. I believe this bill is an important first step in improving our Nation's infrastructure and making our wealthy allies share the burden of their defense.

VETERANS' DAY 1997

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. GILMAN. Mr. Speaker, on the 11th day of the 11th month of the year 1997 we take time to remember those men and women who risked and sacrificed their lives for our Nation. It is a day to remember not only those who have lost their lives in battle but, also those who served valiantly and survived. Our greatness as a Nation could not have been achieved without the strong will and sacrifice of our citizens.

Veterans Day has been an American tradition since 1919, when Woodrow Wilson proclaimed Armistice Day to commemorate the November 11, 1918, Armistice that ended the fighting between the Allies and the central powers. This was our first step onto the international scene. It was a day of observance and remembrance for the 58,000 Americans who had died in World War I.

When the name for the day of observance was changed from Armistice Day to Veterans Day in 1954, it was proclaimed a day for honoring the veterans from all of our wars. The day however, still remained the 11th day of the 11th month, a date which marked the end of bloodshed that left the hope of lasting peace. While that peace did not last there is still hope that one day the world will learn to live together in harmony.

Until then it is important to remember those men who fought for freedom and dreamed that their efforts would bring peace to the world.

Our service men and women have also been our models. They have set a standard for our Nation in the eyes of the world.

As Woodrow Wilson stated on September 4, 1917: ''Let it be your pride, therefore, to show all men everywhere not only what good soldiers you are, but also what good men you are, keeping ourselves fit and straight in everything, and pure and clean through and through. Let us set for ourselves a standard so high that it will be a glory to live up to it, and then let us live up to it and add a new laurel to the crown of America.''

If we do not remember, we might forget and then their efforts might have been in vain.

President Eisenhower once called for Americans everywhere to rededicate themselves to the cause of peace. It is not only the job of our soldiers but the responsibility of all of us as American citizens to do what we can.

Our Nation's veterans have secured our Nation not only from attack but have secured our principles of freedom, equality, and democracy. These are the principles by which we, as American citizens live by.

For these reasons, let us remember all that our veterans have done for our Nation and our people not only today, but every day.

SALUTE TO KAUFMAN COUNTY RED RIBBON CONTEST WINNERS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. HALL of Texas. Mr. Speaker, I had the privilege of presenting awards on October 18 to the essay contest winners of the Kaufman County Red Ribbon Drug Abuse Awareness campaign. These students are Amber Whatley of Mabank High School, Krystal Nye of Terrell Intermediate School, and Kristin Hanie of Forney Middle School. All three wrote about the issue of teenage drinking, and they made some valid points.

Amber Whatley reflected on the death of Princess Diana of Wales and the reports that the driver of her car was intoxicated. She noted that every 27 minutes someone is killed in a drunk-driving related accident, a tragedy that leaves loved ones ''marred with grief and angered that society continues to produce propaganda promoting the appeal of alcohol.''

Krystal Nye discussed the adverse effects of alcohol and the pressures that sometime cause teenagers to begin drinking. She noted that parents should be role models for their children and that the media ''should not make drinking look like it is something that is healthy for you.''

Kristin Hanie also wrote about the effects of alcohol and some of the reasons why teens might be tempted to try it. She mentioned several programs that help teens with alcohol problems, such as Ala-Teen and Al-Anon, and concluded, ''I pray everyday that people will learn alcohol is not the solution, and that someday this problem will be stopped.''

I enjoyed visiting with these students at the awards ceremony, and I commend their efforts to enhance teenage awareness of alcohol abuse. This Red Ribbon Campaign is an annual effort sponsored by the Texas Agricultural Extension Service in cooperation with the Texas A&M University System. Red Ribbon Week is recognized by the National Red Ribbon Campaign, which was celebrated October 18–25. I am always honored when Rita Winton invites me to participate in this important occasion.

Mr. Speaker, as we adjourn today, I ask my colleagues to join me in saluting these outstanding students of Kaufman County and all those young people throughout our Nation who recognize the dangers of teenage drinking and who are doing their best to help their fellow classmates and friends combat this problem. As Miss Whatley concluded, ''If action is taken by teenagers, America can look forward to society's success in developing alcohol-free individuals and a more productive future.''

SECTION 110 OF 1996 IMMIGRATION REFORM NEEDS THOUGHTFUL GO-SLOW APPROACH TO PREVENT CHAOS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. LAFALCE. Mr. Speaker, on September 16, 1997, I introduced legislation to amend section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by exempting Canadian nationals who are not otherwise required by law to possess a visa, passport, or border-crossing identification card. This bill, H.R. 2481, now has 41 cosponsors who recognize the urgency of correcting the flaws in section 110.

Section 110 of the 1996 Reform Act mandates that an automated entry-exit system be established that would allow INS officers to match the entrance date with exit dates of legally admitted aliens. Congress included this section at the last minute during the House-Senate conference of the bill with the intent of solving the problem of overstaying visa holders—aliens who enter the United States legally but overstay their allotted time. Because the U.S. does not have a departure management system to track who leaves the United States, a new entry-exit system was thought to be the vehicle to solve the problem.

In the rush to complete the bill before the end of the fiscal year on September 30, conferees did not have time to give this provision the scrutiny it deserves. As a result, Congress missed the realities of our northern border with Canada. Historically, Canadian citizens have not been required to show documentation, other than proof of citizenship, when entering the United States. The same courtesy is granted to United States citizens entering Canada.

Any attempt to install a documentation system at the northern border will bring intolerable chaos and congestion to a system already strained. Last year, more than 116 million people entered the United States by land from Canada. Of these, more than 76 million were Canadian nationals or United States permanent residents. More than $1 billion in goods and services trade crossed our border daily adding to the enormous traffic flow. To implement section 110 as it now stands would not only impede the flow of people and goods, it would counter the purpose of the United States-Canada Accord on Our Shared Border to ease and facilitate the increased crossings of people and goods between the United States and Canada.

As I have said before, I have a particular interest in the problem of delays and congestion at our northern-border crossings. My district, which includes Buffalo and Niagara Falls, has more crossings than any other district along the border. In a relatively small area, we boast four highway bridges and two railroad bridges. I know from personal experience the problems that delays and congestion can cause at these crossings.

Moreover, it is important to recognize the sense of borderless community that those living on the United States and Canadian sides of the border experience on a daily basis. Friends, family, and business associates travel easily, indeed seamlessly, across the invisible border to shop, enjoy theater and restaurants, athletic events, and other recreational opportunities. Hampering this camaraderie of community because of the need to resolve border problems that are not an issue at the northern border would be folly.

When I introduced H.R. 2481, my intent was not only to correct a flaw, but to initiate debate on the issue, to get the ball rolling, if you will, toward resolving a critical problem. This objective has been achieved. The response and enthusiastic support for this effort tells me unmistakably that this is a serious problem that must be fixed.

Today, I am introducing a bill that addresses the issue more broadly. The Border Improvement and Immigration Act of 1977 not only seeks to correct the problem at the northern border created by section 110, but it also takes a comprehensive but go-slow approach to analyzing the problem and determining the best solutions.

First, the bill would allow an entry-exit system to be implemented only at airports. It specifically exempts from section 110: any alien entering at land borders; any alien lawfully admitted as a U.S. permanent resident, or greencard holder; any alien for whom documentation requirements have been waived under the Immigration and Nationality Act, primarily Canadians.

Second, the bill requires the Attorney General to submit a report to Congress in 2 years on the feasibility of developing and implementing an automated entry-exit control system as prescribed in section 110, including arrivals and departures at land borders. The study must assess the cost and feasibility of various means of operating such an entry-exit system, including various means for developing a system and the use of pilot projects if appropriate. The report also would include how departure data would be collected if the system were limited to airports and a person arriving at an airport departed via land border.

Of particular note is the inclusion of possible bilateral agreements with Canada and Mexico to share entry and exist systems as a means to achieve the objectives of section 110. The proposal, which I have raised with the Canadian Ambassador and the Commissioner of the INS, would allow the United States to use, for example, Canada's entry data as our exit data; while Canada would similarly use United States entry data as its exit data. I believe this is an important cooperative effort that could be studied and possibly pursued under the umbrella of the United States-Canada Shared Border Accord.

Third, the bill will increase the number of INS border inspectors in each of 3 fiscal

years, 1998–2000, by not less than 300 full-time persons each year. Not less than one-half of these new INS inspectors shall be assigned to the northern border. Similarly, Customs inspectors shall also be increased at the land borders by not less than 150 full-time persons in each of 3 fiscal years, 1998–2000, and not less than one-half of the Customs inspectors in each year shall be assigned to the northern border.

Mr. Speaker, I believe my new bill more comprehensively addresses the problematic issues that currently are found in section 110. It is critical that section 110 as it currently stands be amended in order to avoid unnecessary chaos at both the northern and southern land borders. An automated entry-exist system is not one to be implemented without careful consideration of the many issues involved. The Border Improvement and Immigration Act of 1997 provides the basis for making a decision on whether to go forward with such a system.

STATEMENT COMMENDING HANOVER COUNTY PUBLIC SCHOOLS

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. BLILEY. Mr. Speaker, today I would like to recognize Hanover County public schools as the first school system ever to win the U.S. Senate's Award for Continuing Excellence, or ACE. The ACE is awarded to organizations demonstrating ''sustained exemplary performance in quality and productivity improvement.'' Since its establishment 14 years ago, it has only been given out six times, and never before to a public school system. Originally designed to recognize quality in private business, ACE has expanded over the years to include public sector agencies and remains one of the Nation's most prestigious awards.

Hanover County public schools have repeatedly been recognized for the excellence of their programs, the commitment of their teachers and administrators, the support of their parents and the community, and the achievement of their students. They qualified for the continuing excellence award by winning the Medallion of Excellence Award in 1991 and have continued to maintain a high performance on standardized tests, a high percentage of advanced studies graduates, and an exceptionally low drop-out rate.

The U.S. Senate's Award for Continuing Excellence is a tribute to the dedicated efforts of the many individuals who have created in Hanover County one of the finest public school systems in Virginia, and in the Nation.

STRONG ENCRYPTION NEEDED TO PROTECT NATIONAL SECURITY

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. DREIER. Mr. Speaker, computers not only make virtually every aspect of our lives easier, we depend on their efficient operation to help safeguard our national security, economy, and way of life. Yet all it takes is a determined criminal with a personal computer and an Internet connection to cause a great deal of harm. That's why it's crucial that America protects sensitive information in computers with the best technology available.

Ensuring the security of information stored in computers, and preventing criminals from breaking into critical systems requires encryption software, which uses mathematical formulas to scramble sensitive information so it can only be accessed by authorized users, who have the 'key' to decode the material. The more complex the formula, the tougher it is for an unauthorized user to decipher the scrambled material. While American companies generally hold an edge over their foreign competitors in the development of advanced encryption software, export controls allow them to export only relatively simple encryption products. Over 400 companies outside the United States produce encryption software, and most are not subject to the same restrictions as U.S. companies. These companies are increasing their share of the rapidly expanding world market for encryption software at the expense of U.S. firms, which are not allowed to compete.

The Clinton administration has proposed a radical change in encryption policy, one that would impose a mandatory key recovery system on encryption software used in the United States and exported abroad. Key recovery would require the maintenance of a centralized databank with all the Nation's encryption keys, and is primarily intended to help law-enforcement and increase national security. If police or other law-enforcement officials believe criminals have encrypted information that would help prevent a crime or catch a lawbreaker, they would obtain a court order, then retrieve the key from the centralized database. They could then convert the encrypted information back into its original form. Not only does this proposal raise concerns about how to prevent criminals from breaking into the key database, and about the privacy of law-abiding users of electronic commerce and Internet communications, it probably won't work.

While the Clinton administration is working to require that U.S. companies only export advanced encryption software that uses a key recovery system, many other nations will impose no similar requirement on their firms. Because criminals will find it easy to import that software over the Internet, by electronic mail, on compact discs, or in some other way, they will continue to use encryption programs that U.S. law enforcement agencies don't have keys to. The people most affected by the mandatory key recovery system will be lawful Internet users, not the criminals and terrorists it is intended to combat.

Furthermore, prohibiting the export of encryption programs that don't include a key recovery system will make it impossible for American companies to compete with foreign firms that are not similarly limited. American companies will stop competing in a key technology in which they now hold a lead. It will cost U.S. jobs, and prevent advances in a technology that is critical to defending the United States from terrorists, criminals, and even simple hackers. Instead, Congress should lift the controls on encryption software, encourage development of this promising technology, and focus resources on helping police develop better tools to catch criminals who use encryption in the commission of a crime.

THE WORKING AMERICAN'S TAX RELIEF ACT

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. SANDLIN. Mr. Speaker, I rise today to introduce legislation to improve take home pay and reduce taxes for every working American earning a paycheck. The bill, titled the Working American's Tax Relief Act, allows taxpayers to deduct from their taxable income that portion of their income withheld for payroll taxes.

The economic report of the Census Bureau this fall had good news for many Americans. The economy is growing, median income rose for the second straight year, unemployment is low, and welfare rolls are dropping.

However, the working families and small businesses of America are not reaping the rewards of our recent prosperity. Average wages for full-time male workers fell last year, and median income has not fully rebounded since the last recession, leaving the living standard of a typical family below 1989 levels. For the 60 percent of American households in the lower- and middle-income brackets, the situation is even more grim. Real income for these families has fallen for the past 7 years.

Mr. Speaker, this is why people seem to be working harder and longer and not getting ahead. This is why Americans working a 40-hour week struggle to make ends meet. There were many good provisions in the Taxpayer Relief Act of 1997, and I supported the bill. However, the Working Americans Tax Relief Act builds on our success and offers much needed tax relief to every American bringing home a paycheck.

Including both the employee and employer contribution, over 70 percent of Americans pay more in payroll taxes than in Federal income tax. Even worse, the burden of this tax falls most heavily on the over 90 percent of Americans who earn $65,400 or less. Working, middle-class Americans earning up to $65,400 a year pay a combined 15.3 percent of their income to fund the Social Security and Medicare programs. For taxpayers earning more than that, every dollar earned over $65,400 is earned payroll tax free. Small businesses pay this tax regardless of the profits they make in a year, and for many small businesses payroll taxes have become the greatest tax burden. Small business owners and employees need relief from the tax. I am not proposing to change the structure of payroll taxes in America, but I am proposing to make the burden of the tax easier to bear.

American taxpayers currently pay income taxes on the portion of their income withheld from their paychecks for payroll taxes. Compounding the injustice of this tax is the fact that many of these taxpayers will again pay taxes on this income when they receive it back in the form of Social Security benefits after retirement. To eliminate this double taxation and offer the average American worker over $1,000 in tax savings, my bill grants all workers, including the self employed, a deduction from taxable income equal to the amount of that worker's payroll taxes.

I urge my colleagues on both sides of the aisle to join me in supporting legislation to end double taxation of income and offer real tax relief for middle-class Americans and small businesses.

NATIONAL DRUG CONTROL STRATEGY

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. PORTMAN. Mr. Speaker, I rise today to express my serious concerns about the failure of the Department of Defense to provide sufficient support for the National Drug Control Strategy in its fiscal year 1999 request. I also would like to commend the Office of National Drug Control Policy for refusing to certify the DOD budget request.

After making tremendous progress in the war on drugs from 1979 through 1991, drug abuse among our young people has been rising significantly over the past 5 years. Drug abuse is not only threatening the health and lives of our young people, it is a predominant factor behind violent crime, welfare dependency, teenage pregnancy, rising health costs, lower economic productivity, the spread of AIDS, and many other problems. Now is not the time to be backing away from our responsibilities to attack this problem.

Many of us in Congress have been working hard over the past few years to reverse these disturbing trends. We have been working in cooperation with General McCaffrey to support and enhance the National Drug Control Strategy. We must continue to support the goals of the strategy on both the supply and demand sides.

We strongly support the effort to ensure that the Department of Defense amends its fiscal year 1999 budget request to include an additional $141 million in drug control initiatives. These funds are absolutely essential to enhance efforts in the Andes, the Caribbean, Mexico, and along our borders, where this battle has to been fought initially. With a strong effort in source countries and along our borders, we can help reduce the use of drugs in the United States, which is crippling our young people.

Currently, counterdrug spending represents only 0.3 percent of the total Department of Defense budget. Despite rising drug use, the Department's counterdrug effort has declined by 2 percent since fiscal year 1996.

I also believe that it is vitally important to have a coordinated effort with leadership from the Office of National Drug Control Policy. This is a good example of why we need a drug czar. If we all stand behind the same goals and work hard in every agency and in Congress to support and enhance the anti-drug efforts at home and abroad, we will reverse the disturbing escalation in illegal drug use in our communities.

I call on the Department of Defense to bring its budget request in line with the National Drug Control Strategy and to help support the comprehensive Federal effort we must have if we are going to reduce drug abuse.

THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM INCENTIVE ACT OF 1997

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mrs. JOHNSON of Connecticut. Mr. Speaker, for many years our Government has supported health care training programs to increase the number of health care professionals to serve our Nation's people. One of the most successful health training programs we have created is the National Health Service Corps Scholarship Program. Enacted more than 20 years ago, the purpose of this program is not only to encourage the training of top quality health care professionals but also to improve access to health care for Americans living in medically underserved areas.

This program encourages the training of primary care providers, focuses on preventive care, and targets medical manpower shortage areas. The graduates of this program work in our migrant health centers and in both rural and inner city community health centers, such as the community health center in my hometown of New Britain.

Program recipients are given a scholarship award, covering the costs of tuition and fees, together with a monthly stipend covering living expenses. In response to this award, the National Health Service Corps scholars are obligated upon completion of their training to provide a year of full-time primary health care in a designated shortage area for each year of scholarship funding. These areas are located in some of our Nation's neediest communities which are desperate for primary care providers.

Unfortunately, Mr. Speaker, this successful program is now in jeopardy—not from lack of funds, but from the new IRS interpretation of section 117(c) of the Internal Revenue Code to treat these scholarship amounts as fully taxable income.

Many scholarship recipients have tuition and fees amounting to more than $36,900; income tax withholding at the required 28 percent can eat up nearly all, if not all, of the stipend portion of the award. If the student has additional income—a part-time job for example—he or she could face an additional tax liability on that income, though their money available for daily living expenses has not changed.

I have been contacted by a concerned student regarding this IRS interpretation. Jenny, a student at Yale University, is studying to be a nurse practitioner. As a recipient of a National Health Service Corps Scholarship, her $30,000 a year tuition is paid directly to the school; she receives $3,500 toward school fees, equipment, books and supplies, and a small stipend for living expenses for which income taxes are withheld. She was recently notified by the Department of Health and Human Services that income taxes would be withheld on the scholarship money as well.

Jenny will now be taxed at the 28-percent rate because the entire scholarship amount will now be included in her income, even though she never sees the majority of this money that is sent directly to her school for tuition. Jenny is now worried about her living expenses, because the new additional withholding will almost eliminate the stipend that she relies on for her room and board. Since Jenny already has a lot of debt from her undergraduate student loans, this abrupt change in policy threatens her ability to afford to stay in school and makes it more difficult to fulfill her obligation to work as a nurse practitioner in an underserved area, where her wages would likely be lower.

In my view, the IRS position regarding its application of section 117(c) is simply wrong. First, this money is not disguised future compensation. In fact it is the opposite. It is recognition of the compensation forgone as a consequence of going to work in an inner city or underserved rural area where wages are often low because there are not the resources needed to support a health care professional's income. Second, there is little difference between the obligations required under the National Health Service Corps Scholarship Program and the obligations required by the debt forgiveness provisions we enacted this summer in the Tax Payer Relief Act of 1997. And there should not be a difference in the tax treatment of the school scholarship or loan amount in terms of taxable income.

Through the passage of the Tax Payer Relief Act, we in Congress affirmed our support for favorable tax treatment of medical student loans forgiven in exchange for future service in medically underserved areas. It seems inconsistent and arbitrary to tax a scholarship given in exchange for a future commitment of public service in a medically needy area, while exempting a student loan forgiven for a similar commitment from the tax.

We need to correct this aberration in tax policy now before this successful program is destroyed. We need to take immediate action to clarify the Tax Code so that those students who wish to undertake the obligations of the program are assured stable, predictable financing of their academic program in exchange for a commitment to serve our underserved communities. It is also important to ensure that communities continue to have access to low-cost, quality health care services and that community and rural health centers will continue to have health professionals available.

My bill will reverse the IRS position regarding the taxability of these scholarships. It will rectify tax policy inconsistency, and it will ensure that a well-run and successful program is not devastated by a bureaucrat operating in clear contradiction of the intention of this valuable, proven program. In addition, it will let people like Jenny continue with her studies and be assured that her scholarship and stipend are intact.

I ask my colleagues to join me in cosponsoring this legislation to save the National Health Service Corps Scholarship Program.

60TH ANNIVERSARY OF THE CALUMET CITY CHAMBER OF CONGRESS

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. WELLER. Mr. Speaker, I rise today to honor the 60th anniversary of the Calumet City Chamber of Commerce, an organization who represents a community rich in heritage.

The Chamber of Commerce is a strong and independent leader of the business firms of Calumet region, and thus addresses issues that affect its members and the community. The Chamber has lent greatly to the development of this fine community over the years and should be recognized for its spirit of leadership and vision.

Currently, the Calumet City Chamber of Commerce provides many services to its residents. From initiating the area's ambulance program to attracting new business to the area, the Chamber has shown a devotion to continuing to build and revitalize the region. Community strength, in part, stems from those who are willing to give back to their patrons, the very community they serve. We all share a vision of good schools, safe streets, and a healthy commerce. The Chamber should be commended to their dedication toward achieving this goal.

The 60th anniversary of the Calumet City Chamber of Commerce will be celebrated this evening, Saturday, November 8. At this time the Calumet City Chamber will install its new officers for 1998 who include: Frank Orsini, president, Mike Sawicki, vice president, Don Todd, treasurer, Kenneth M. Tease, executive manager.

Board of Directors: Tom Cornwell, Harry Jones, Jeanette Sackol, Elaine Lane, Bob Sanders, George Karl, Tom Sanders, Ray Mika, Jerry Eurley, Chris Martin, and Mike Gauthier.

It is truly fitting that this Chamber celebrate 60 years of history and progress. I extend my best wishes to the Chamber's membership, its present and incoming leaders for many more prosperous years to come.

THE NATIONAL HISTORIC PRESERVATION ACT

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. SOUDER. Mr. Speaker, today, I am introducing the National Historic Preservation Act, which would establish a national historic light station preservation program. It has been introduced in the other body by the chairman of the Energy and Natural Resources Committee, Senator FRANK MURKOWSKI of Alaska.

As you may know, Mr. Speaker, lighthouses have served as lifesaving navigational aids since before the turn of the century. However, many of these lighthouses have outlived their use to the Coast Guard as navigational aids. Thus, the Coast Guard is left with surplus lighthouses, and declares them excessed. The question then becomes, who cares for these lighthouses once they leave the Coast Guard's hands? If the land on which a particular lighthouse in question was first granted by a Presidential Order to the U.S. Lighthouse Establishment, it is considered to be public domain, and has to be first offered through the Bureau of Land Management [BLM] to the Interior Department. If the Interior Department does not claim the land, then the lighthouse is placed in the General Service Administration's [GSA] excessing process. If the property is not considered public domain, then the lighthouse is placed directly into the GSA excessing process.

Through the GSA process, priority is first granted to Federal agencies. This means that the lighthouse could be used for such things as an office for the Internal Revenue Service. If no Federal agency claims it, the property is then surveyed to see if it is suitable to qualify under the McKinney Homeless Assistance Act, thereby allowing it to be transferred to those organizations that assist the homeless. Should neither of these categories claim the lighthouse, it is then offered to the State in which it is located, possibly to be used for recreation purposes. If the State does not claim it, then it is offered to the local government where the property is located. Finally, if the lighthouse is still available at the end of the GSA process, it is put up for public sale.

The real tragedy here, Mr. Speaker, is that many of these lighthouses have been protected and preserved over the years by nonprofit historical lighthouse societies, who have donated a great deal of time, money, and resources to lighthouse preservation. As you can see, in order to have the lighthouses conveyed to them, they must wait through the long process described above, and then must bid on them. This process basically requires these nonprofit organizations to compete financially with private groups that have greater access to funds, and that have, in many cases not made the same commitment to the lighthouse in the past. In addition, these private groups may have plans for the lighthouse that are inconsistent with the best interests of the community. Though these nonprofit groups can, in some specific cases, purchase the lighthouse directly from the BLM, they must pay half of its market value—a value that those particular groups helped to increase over the years through their hard work. Thus, the message we are sending here is that if you're going to provide a public service by preserving historical sites, you're going to have to pay for them in the end.

I should point out that another method for conveyance is for Congress to enact separate pieces of legislation to transfer a lighthouse to a specific group. As we know, this process can be very time consuming and cumbersome considering that there are hundreds of lighthouses that will be excessed in the near future.

My legislation would introduce fairness into the conveyance process for historic lighthouses by amending the National Historic Preservation Act to transfer this process to the National Parks Service, which would be able to work in conjunction with the State Historic Preservation Officer, to establish a national historical light station program. This new program would give priority to those Government agencies that have entered into a partnership agreement with a nonprofit organization whose primary mission is historical preservation of lighthouses, and would convey them at no cost. If no such applications are offered, or approved of, then the lighthouse would be put up for public sale. Thus, this legislation would help to ensure that in those cases where a nonprofit group has been active in a particular lighthouse's preservation, and wishes to continue in it's work, that that group would be given a fair shot at claiming lighthouses when the Coast Guard excesses them.

Mr. Speaker, we need to recognize the very important role lighthouses have played in this country's history. By encouraging Government agencies to join with nonprofit groups to help preserve lighthouses for the future, we will be providing a much fairer process to those who wish to continue their work in preserving these nationally historic structures.

HONORING MAYOR RAY BLEDSOE

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. HALL of Texas. Mr. Speaker, it is a privilege for me to rise today to pay tribute to Mayor Ray Bledsoe of Howe, TX, who last month received the national Hometown Leadership Award, given by the National Association of Small Cities. Only 300 officials in the country received this award, and I am so pleased that my good friend and outstanding civic leader, Ray Bledsoe, is one of those.

Ray is always at the center of community service in Howe. He has served Howe as mayor for the past 11 years. He has spearheaded economic development and was instrumental in obtaining a connector road from Highway 11 and U.S. Highway 75. He helped put together funds for a new community center and coordinated a joint effort between the city and school district to build two new baseball parks. He is the president of the Grayson County Fair, serves on a half-dozen boards, and works about 60 hours a week taking care of the city of Howe's business—all without pay.

Ray not only provides leadership and guidance for the citizens of Howe but also provides hands-on service. Last month, as reported by the Herald Democrat. he was at the Grayson County Fair unfolding chairs, moving extension cords, and setting up booths. Earlier he built a fence around a statue of Judge Jake Loy, then got on his hands and knees and landscaped around it. Ray is willing to help with any task—no matter how large or small—and he is respected and beloved by the citizens of Howe.

Mr. Speaker, in the small towns and cities of America, the mayor plays an indispensable role in the functioning of the community. Often, as in Howe, this is an unpaid position. Too often the mayor receives far more complaints than thanks. So as we adjourn today, Mr. Speaker, I would like to take this opportunity to recognize an outstanding civic leader of Howe and an outstanding American—Mayor Ray Bledsoe—and to thank him for a job well done.

PERSONAL EXPLANATION

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. FORBES. Mr. Speaker, on Thursday, November 6, 1997, I appreciated being granted an excused absence for part of the day. Due to that absence, I missed several rollcall votes.

Had I not been absent for part of the day on June 6, I would have voted in the following manner:

''No'' on rollcall No. 585—Motion to adjourn;

''No'' on rollcall No. 586—Motion to adjourn;

''No'' on rollcall No. 587—Ordering the previous question on H. Res 305;

''Yes'' on rollcall No. 588—Motion to table the motion to reconsider the vote on the previous question;

''Yes'' on rollcall No. 589—Agreeing to H. Res 305, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes;

''Yes'' on rollcall No. 590—Motion to table the motion to reconsider H. Res 305;

''No'' on rollcall No. 591—Motion to adjourn;

''Yes'' on rollcall No. 592—Agreeing to H. Res 188, urging the executive branch to take action regarding the acquisition by Iran of C–802 cruise missiles;

''Yes'' on rollcall No. 593—Motion to table the motion to reconsider H. Res 188;

''No'' on rollcall No. 594—Motion to adjourn;

''Yes'' on rollcall No. 595—On passage of H.R. 967 to prohibit the use of United States funds to provide for the participation of certain Chinese officials in international conferences, programs, and activities and to provide that certain Chinese officials shall be ineligible to receive visas and excluded from admission to the United States;

''Yes'' on rollcall No. 596—Motion to table the motion to reconsider;

''No'' on rollcall No. 597—Motion to adjourn.

CONFERENCE REPORT ON H.R. 2264, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. TORRES. Mr. Speaker, I am pleased to support the fiscal year 2000 $300 million advance funding level for the Corporation for Public Broadcasting contained in this bill. That is a $50 million increase over the comparable appropriation for fiscal year 1999, an amount which only partially offsets the three consecutive years of rescission of public broadcasting funds. The American public has sent a clear message to Congress that it supports a public broadcasting system.

The House appropriations report concerning CPB funding specifically supports the commitment made by CPB in 1994 to formalize partnerships among the organizations of the National Minority Public Broadcasting Consortia, television stations, and other public broadcasting organizations to maximize resources to increase the amount of multicultural programming on public television. That 1994 agreement was over a year in the making, but unfortunately, it has never received any funding.

I trust that the $50 million increase will make it possible to fund the Principles of Partnership Initiative, and would encourage CPB to see if they can find fiscal year 1998 and fiscal year 1999 funds to get this initiative of collaboration underway.

The Minority Consortia organizations—Pacific Islanders in Communications, National Black Programming Consortium, National Latino Communications Center, National Asian American Telecommunications Association, Native American Public Telecommunications—have provided public broadcasting's program schedule hundreds of hours of programming addressing the cultural, social, and economic issues of the country's racial and ethnic communities. Additionally, each consortium has been engaged in cultivating ongoing relationships with the independent minority producers community by providing program funding, programming support, and distribution assistance. They also provide numerous hours of programming to individual public television and radio stations.

I would like to point out that the newest consortia member, Pacific Islanders in Communications, is headquartered in Hawaii and has already had major responsibility for several award winning public broadcast productions, notably Storytellers of the Pacific which was coproduced with Native American Public Telecommunications, and And Then There Were None.

I look forward to an increasingly productive partnership between public broadcasting and the National Minority Public Broadcasting organizations and the communities they represent.

A PROGRESS REPORT ON THE LOAN CONSOLIDATION PROGRAM

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. ANDREWS. Mr. Speaker, I rise to report on the progress of the Department of Education's loan consolidation program. Because of the solid efforts of the Department and EDS, the program is on track to complete all the pending consolidation applications and to resume accepting new applications by December 1, 1997.

As of September 15, 1997, EDS had received 142,856 consolidation applications. Of that number, 84,078 were still pending. In less than 2 months, the outstanding inventory has been reduced by 81 percent; only 15,607 applications are still pending. As a result, the number of completed consolidations has increased by 64 percent since mid-September.

These updated figures show that the loan consolidation problems no longer exist. The Department's loan consolidation program streamlines the borrowing process, reduces financial costs, and improves access to education for students and their families. The Department and EDS are to be commended for their swift response to the situation and for putting this important program back on track.

HELPING EMPOWER LOW-INCOME PARENTS [HELP] SCHOLARSHIPS AMENDMENTS OF 1997

SPEECH OF

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 1997

Mr. SANDLIN. Mr. Speaker, I rise today to oppose H.R. 2746, the HELP Scholarships Program. I am a strong advocate for public schools and I believe we must work to ensure that all children, regardless of race, religion, income, or social status, have an opportunity to receive the best education possible in our public schools. We should not jeopardize that opportunity with an ill-conceived plan to provide tax dollars to private schools.

If we are to improve public education in this country, we must take positive steps. I believe the principles outlined in the Democratic plan provide the foundation for those steps. We have focused on six goals: First, early childhood development—basics by age six; second, well-trained teachers; third, relief for crumbling and overcrowded schools, and well-equipped classrooms; fourth, support for local plans to renew neighborhood public schools; fifth, efficient and coordinated use of resources; and sixth, parental choices for public schools.

These goals seem to be simple common sense. They provide the basis for a quality, public education for all students. If we, as Members of Congress, unite behind these goals, we can make great strides in our quest to improve public education. In our great country, everyone is guaranteed the right to a free, public education. It is our duty to ensure that a public education is consistently a quality education.

The increasing competitiveness of our global economy requires that our young people be better educated than ever before in our history. Our schools must provide adequate training in the basic skills needed to succeed in the current and future job market. We must ensure that all of our students have access to an education that prepares them to survive in a global economy. The Democratic plan places us firmly on that path.

Unfortunately, the bill we are considering today will help only a few children fortunate enough to meet the criteria to attend private schools. This bill provides no real choice to students or parents. It does nothing for the vast majority of the nation's students. Only a few lucky students could take advantage of the program given the low funding level for the title VI program under which the vouchers would be provided.

The Republican plan might provide more opportunity to a few select lower income students, but what about the rest? What about the students that private schools don't want? We cannot require private schools to admit all students. This bill affords no civil rights protections to the students in the voucher program. Schools accepting vouchers do not have to accept children who need high-cost education because they are disabled, have limited English proficiency, or are homeless. When we provide public funds to these schools, we resurrect the misguided concept of ''separate but equal.''

In addition to the problems presented by diverting public money into private schools, I believe it is important to point out that it is a clear violation of the first amendment doctrine of separation of church and state to provide public money to private, religious schools. This bill explicitly permits Federal funds to be used for sectarian activities. Such provisions are clearly contrary to the provision of the first amendment prohibiting the establishment of religion. The Supreme Court has consistently held that tax dollars cannot pay, directly or indirectly, for religious education or the religious mission of parochial schools. If we adopt this

voucher program, it will certainly face a court challenge that it could not withstand.

Nowhere in the United States has there been a successful voucher plan. In fact, most states, including my own State of Texas, have rejected vouchers at every turn. The States understand that our public schools cannot and will not survive if we enact such a proposal. To the contrary, they will wither on the vine.

Mr. Speaker, I strongly support local control and I am not at this point willing to reject all voucher proposals out of hand. But many of our local governments have spoken and the result has been a resounding ''no''. Until a voucher plan is successful at the local level, we in Congress should not impose our will on individual school districts and force them to lose any of their much needed public funding.

Mr. Speaker, now is not the time for experimentation. Now is the time to fight for our public schools, to fight for a quality education for all children, to fight for state-of-the-art equipment in the classroom. I urge my colleagues to oppose this harmful legislation.

IN HONOR OF MARTIN LUTHER KING, JR.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. GILMAN. Mr. Speaker, by the time our Congress reconvenes in January, Americans will have commemorated the national holiday which honors one of our greatest patriots and moral leaders, the Rev. Dr. Martin Luther King, Jr.

A few months later, on April 4, 1998, will fall the 30th anniversary of that dark day in American history when Reverend King was taken from us prematurely, at far too young an age, in one of the most heartless, senseless, and destructive crimes ever. For as long as civilization exists on this planet, scholars will debate how much greater an impact Dr. King would have had on our society had he been allowed to live and to continue his contributions.

Although the life of Martin Luther King was tragically cut short, his message is eternal and will long outlive all of us here today. The simple truth that Dr. King worked so hard to make us all realize is that hatred actually harms the hater more than the hated. The evils of racial injustice, which were a blot on the record of our country for far too long, harmed our economy, the morals, and the advancement of white America just as much as it did Black America. The terrible legacy of Jim Crowism and continued racial discrimination which plagued us for well after a hundred years of the Emancipation proclamation harmed us all, for they not only prevented all Americans from enjoying the full benefits of our society, they also prevented us all from reaping the benefits of the contributions all Americans are capable of making.

In today's world, as we stand on the threshold of the 21st century, many of Martin Luther King's achievements are all around us. More Afro-Americans hold elective office in the United States today, at all levels of government, than even the most optimistic person could have predicted in 1968. Afro-Americans have entered every field of our national lives and have seared themselves into our national consciousness. How much sadder and less enlightened all of our lives would be had we not had the works of Nobel Literature Prize winner Toni Morrison, the television entertainment of Bill Cosby, the athletic prowess of Michael Jordon, Magic Johnson, and so many others, and the millions of other black men and women who contribute to our society but would not have been able to do so had it not been for the desegregation work of Dr. Martin Luther King.

By no means should the celebration of Martin Luther King Day be taken as a celebration that we have achieved all we can. In fact, the legacy of racial division and hatred continues to plague us today, in many ways, day after day. I have personally been appalled to hear radio entertainers, those so called ''shock jocks'', who seem to believe it is both funny and entertaining to perpetuate racial stereotypes and verbal bigotries that most of us though we outgrew as a people some 40 years ago. It seems as if all too often we hear of the desecration of a Black church, the beating of a Black young person, and other acts of racial hatred that Dr. King devoted his life to wipe out. No American can truly be satisfied until after all of the barriers of prejudice in our society are removed.

Let us be inspired by the words of Dr. King, who stated: ''If you can't fly, run. If you can't walk, crawl. By all means, keep on moving.''

Martin Luther King Day is an appropriate time for all Americans to pause and remember that we must continue to move, until the day when all of us are afforded full opportunity, and that none of us have to be concerned that race, color, creed, or ethnic heritage are a hindrance to any individual, or to our Nation as a whole.

Let us free ourselves from hatred, as Dr. King urged, so that we can share the dream he so eloquently shared in August of 1963—a dream that ''some day the descendants of slaves and the descendants of slave holders can sit down and join hands together at the table of brotherhood and proclaim: Free at last, free at last. Thank God almighty, we're free at last.''

CONGRATULATIONS DONALD DALLAS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. BARCIA. Mr. Speaker, those who earn recognition for community service are very special people. They have made efforts to give back to their communities to make them even better places, and have often thought of their neighbors ahead of their own interests. Next week the Knights of Columbus Holy Trinity Assembly 2013 will be honoring Donald Dallas for his civic activity with a humanitarian outlook.

Don Dallas has been a resident of Arbela township for 28 years. A graduate of Century College as a physical therapist, he also has training from the School of Aviation Medicine from Air University, U.S. Air Force. He also attended Blackstone School of Law, where he studied as a paralegal.

Currently a licensed private investigator and court officer, Don Dallas is a member of the Michigan Court Officers Association, the Michigan Council of Private Investigators, the U.S. Process Servers Association, and the Association of Trial Lawyers of America.

He is known throughout the community for his activity with the Tuscola County Planning Commission, the Red Cross Disaster Relief Volunteers, the County Democratic Club, and Habitat for Humanity.

Don's personal successes have been amply aided by his impressive family. His wife, Kathy, is a graduate of Central Michigan University and a registered nurse. Their daughter, Terri Dallas-Prunskis, is a medical doctor specializing in pain management and an associate professor at the University of Chicago Medical School. Their son, Ronald, is a graduate of Andrews University as a mechanical engineer.

Dan Dallas is one of the recipients of this year's awards for community service, in memory of Father William Cunningham, a priest who could only reach for tomorrow's challenge while completing today's accomplishment. Father Cunningham's family resides within my district, and he has served as an inspiration to literally thousands of men and women of all ages and backgrounds as the co-founder and executive director of Focus: HOPE in Detroit.

Mr. Speaker, I urge you and all of our colleagues to join me in congratulating Don Dallas on this impressive award, and in wishing him the very best for the future.

THE CONTINUING LEGACY OF THE LEWIS AND CLARK EXPEDITION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. BEREUTER. Mr. Speaker, this Member would like to commend to his colleagues the following editorial from the November 4, 1997, *Omaha World-Herald.* The editorial highlights the growing interest in the Lewis and Clark Expedition and the upcoming bicentennial celebrations to commemorate the bold and courageous journey. As someone who has had a longstanding interest in the Lewis and Clark Expedition, this Member is pleased to promote the bicentennial efforts through the introduction earlier this year of two pieces of legislation. H.R. 1560 authorizes the U.S. Mint to produce a commemorative coin honoring the Expedition. Proceeds from the sale of the coins will be used to fund the activities of the National Lewis and Clark Bicentennial Council and the National Park Service.

This Member has also introduced House Resolution 144, a resolution to express support for the Bicentennial of the Lewis and Clark Expedition. This resolution highlights the importance of the expedition and expresses congressional support for the commemorative activities of the National Lewis and Clark Bicentennial Council as well as Federal, state and local entities and other interested groups.

We must continue to recognize the ongoing legacy of the Lewis and Clark Expedition. The upcoming bicentennial activities will provide excellent opportunities to stress the importance of the journey's mission and discoveries.

[From the World-Herald, Nov. 4, 1997]

LEARNING MORE ABOUT A MIDLANDS JOURNEY

Lewis and Clark's great journey of discovery is beginning to draw attention as the bicentennial of the 1804 event draws closer.

A two-part documentary by Ken Burns is set to air tonight and Wednesday on Public Broadcasting System stations in the Midlands. Burns' effort follows a popular book by historian Stephen Ambrose, whose ''Undaunted Courage'' described the trip in detail. The book relied on historical records, letters and memoirs, as well as journals of the expedition written by Meriwether Lewis, William Clark and other members of the party. More than 800,000 copies have been sold.

The expedition was commissioned by President Thomas Jefferson to explore the newly purchased Louisiana Territory. Jefferson ordered Lewis to follow the Missouri River as far as he could, then keep going beyond U.S. territory in an attempt to find a convenient water route to the Pacific.

There is no fast and easy route by water. But the explorations of Lewis and Clark succeeded in another way. They opened the continent to further settlement, identified scores of new plants and animals and launched tentative but cordial relationships with Indian tribes.

Current signs of interest include a 10 percent increase of visitors at Fort Clatsop near Astoria, Ore., where the explorers wintered. Membership in the Lewis and Clark Trail Heritage Foundation has risen. A flood of books on the subject is about to hit the stores.

Archeological digs are proceeding at Fort Clatsop, at Fort Mandan, another wintering site in North Dakota, and at the Great Falls of the Missouri. The first major archeological survey of sites on the trail began recently.

Lewis and Clark sites throughout the West and Midwest are gearing up for tourists as the bicentennial approaches. New Park Service interpretative centers in North Dakota and Montana will aid visitors.

In the Midlands, the Western Historic Trails Center in Council Bluffs, which presents information on the Lewis and Clark expedition and trails that went through the region, is ready for visitors. A new observation deck was constructed at Ponca State Park, overlooking part of the expedition's route. It is one of 10 markers being constructed in Nebraska to emphasize the highlights of the voyage. A Lewis and Clark national Historical Trail Interpretative Center is planned at Nebraska City.

Commemorations in Sioux City will revolve around the riverboat at the Sgt. Floyd Museum and Welcome Center. Floyd, a well-liked leader, was the only member of the party who didn't survive the trip.

The Lewis and Clark voyage of exploration was a major event in the life of the infant nation. The courage of the two leaders and their men was exceptional. The intellectual curiosity and scientific observational skills of Lewis were astounding. The party's combination of luck, pluck and ability has few equals. It's appropriate that the public is taking an interest in their story.

Though many Members of Congress seem to be having a difficult time making up their minds whether ''fast-track'' is in the national interest, the sensible Lincoln Journal Star newspaper in Lincoln, NE correctly acknowledges that the logic behind ''fast-track'' ''[i]s a simple numbers game.'' This editorial properly recognizes that 96 percent of the world's consumers live outside of the United States, and we ignore them to our own detriment. Maybe a reading of the attached editorial will inject some fresh Midwestern air into the protectionist fog hanging over the District of Columbia and the Capitol. It's certainly worth a try.

[From the Lincoln Journal Star, Nov. 7, 1997]

PRESIDENT'S FAST-TRACK AUTHORITY IS NEEDED IN A GLOBAL ECONOMY

(Unsigned editorials are the opinion of the Lincoln Journal Star)

It's a bit surprising that a question exists on whether President Clinton should be granted fast-track authority in trade negotiations. Every president since Gerald Ford has had the power. In fact, fast-track authority had never lapsed until it expired on Sept. 30.

But Democrats are finding it difficult to support Clinton on the issue because of the vigorous opposition of organized labor, which has paid for radio and television advertising, organized phone calls to congressional offices and threatened to withhold campaign funding.

In Congress, trade protectionists led by Rep. Richard Gephardt, D-Mo., have been joined by Republicans, who hate to see Clinton win anything, to create a cliffhanger. Analysts predict a close vote in the House. In the Senate, where there is more support for fast-track powers, opponents have succeeded in delaying action.

The concept of fast-track authority is easily described. It gives the president the authority to negotiate trade agreements, which Congress then can reject but cannot amend. Without such authority, any member of Congress might want to change this line or that of any trade agreement sent to it for approval. If that were the case, it's doubtful that any country would negotiate with the United States.

At this point in history, there is overwhelming evidence that free trade benefits the United States. It's a simple numbers game. The United States has 4 percent of the world's consumers. The rest live in countries where the economies often are expected to grow at rates that will exceed those in developed countries like the United States. Many Latin American countries, for example, are expected to have annual growth rates of as much as 5 or 10 percent. If the United States wants to maintain or increase its wealth, it needs to sell to those consumers.

International trade is already of major importance to the national economy. There has been a 35 percent increase in American exports since 1992. In 1996, U.S. exports of goods and services reached a record $836 billion, employing 16.7 million workers.

The most persuasive argument against free trade is that it can mean that industries gravitate to nations that will permit them to degrade the environment, or use child and prison labor. Under the proposed fast-track legislation, however, Clinton has the authority to negotiate agreements that protect against those outcomes.

In the end, the issue of free trade reaches basic questions of economic freedom. The United States has led the world in open markets, free enterprise and competition. Everywhere, nations are adopting those values. Since the end of World War II, global tariffs have dropped from an average of 40 percent to 5 percent.

For the United States to continue to play an important leadership role in the global economy, Congress needs to restore fast-track authority to the president.

LEGISLATION TO PROMOTE FAIR FRANCHISING

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. LAFALCE. Mr. Speaker, I am today introducing legislation to address serious problems in the promotion and sale of franchise businesses and in the conduct of franchise business relationships. The legislation incorporates key proposals from bills I introduced in prior Congresses.

In the past two decades franchising has changed the way Americans do business and the way we purchase goods and services. In large and small communities in my district and across the Nation the growing majority of businesses are either franchises or licensed outlets of national companies or retail chains. Franchising has been a significant factor driving both the expansion of our service economy and the growth of our small business sector.

Thousands of American families invest in franchises each year in the hope of realizing dreams of business ownership and economic independence. Unfortunately, too many of these dreams are shattered by franchise promoters who never fulfill promises to help build successful businesses. Rather than owning their own business, many franchisees find they have merely purchased below-minimum wage jobs that have neither the benefits or protections available to employees nor the legal rights and remedies of business ownership. For many franchisees, dreams of business ownership often turn into legal and financial nightmares.

These problems stem, in large part, from the fact that Federal and State law hve failed to keep pace with the rapid development of franchising and offer franchisees little, if any, viable legal recourse against fraudulent and abusive conduct by franchisors. We have no Federal laws governing the sale or operation of franchise businesses and the only regulatory procedure at the Federal level, the Federal Trade Commission's franchise disclosure rule, is outdated and inadequately enforced. Only a handful of States have laws or regulations governing franchise sales and practices, and most of these now defer to the Federal Government for enforcement.

These problems are compounded by the fact that franchise contracts are written by franchisors to preempt every legal remedy available to franchisees. As a former chairman of the American Bar Association's Franchise Forum told the Small Business Committee several years ago, indemnification provisions in franchise contracts are drafted so broadly as to protect franchisors even for the franchisor's gross negligence, wanton recklessness and intentional misconduct.

Procedural devices also are routinely employed in franchise contracts to bar legal actions, to deny coverage of protections in State laws and to make litigation inconvenient and costly. Even basic principles of common law applicable to all other business relationships—concepts such as good faith, good cause, duty of competence and due care, and fiduciary responsibility—are routinely denied in franchise contracts.

In short, a huge and growing number of American business owners are routinely required to forego their basic rights and legal remedies just because they choose to become franchisees.

The bill I am introducing today, the Federal Fair Franchise Practices Act, addresses these problems and does so not by increasing Government regulation, but by enhancing private remedies that permit individual franchisees to protect their legitimate financial interests in a court of law.

My bill would promote greater fairness and equity in franchise relationships by establishing minimal standards of conduct for franchise practices, by prohibiting the most abusive acts by franchisors, by clarifying the legal rights of franchise owners, and by nullifying procedural devices intended to block available legal remedies.

In addition, the bill incorporates basic prohibitions against fraud, misrepresentation and discrimination elsewhere in Federal law and applies them to franchise sales and business practices. It protects the right of franchisees to organize franchisee trade associations and to engage in collective legal action to protect their financial interests. And it provides a private right of actions for violations of Federal franchise disclosure requirements—something the FTC has requested for 18 years.

Mr. Speaker, franchising has undergone tremendous growth in the past two decades and now dominates our nation's retail and services sectors. But Federal law and regulation have failed to keep pace. Federal guidelines intended to protect the public from false or misleading franchise promotions are sadly out of date and only marginally enforced. Legal rights and standards taken for granted in other business relationships continue to be debated and denied in franchising arrangements.

It is time Congress acted to provide basic protections in Federal law to discourage fraudulent and abusive franchising practices and to help strengthen the American dream of small business ownership. I believe the proposals I am introducing could constitute landmark legislation. In much the same way that the Wagner Act helped revolutionize labor-management relations in the industrial economy of the 1930's this legislation can help restore fairness and balance in the growing franchising sector of the services-based economy of the 1990's.

I recommend this legislation to the consideration of my colleagues and I urge its adoption by the Congress.

TRIBUTE TO BILL AND DALE BELCHER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. GALLEGLY. Mr. Speaker, I would like to recognize Bill and Dale Belcher on being chosen as Golden Condor Award winners for their many years of outstanding service to their community and Scouting.

Their work with the Scouts has spanned decades and has had a tremendous impact on the many young people they have worked with over the years. Their sense of community extends far beyond the boundaries of Scouting. For some, that would be enough public service, but not for Bill and Dale. Each of them has dedicated their life to a variety of service organizations. Both Bill and Dale have been very involved in their church and served as executives with United Way.

Dale is active with Soroptimist International, Oxnard Women's Club, and a host of other organizations. Bill is a 20-year veteran of the U.S. Navy, and a longtime member of the Rotary Club, just to name a few.

Mr. Speaker, Bill and Dale Belcher stand as shining examples of the difference two people can make in the lives of many. I would like to extend my sincere congratulations to Dale and Bill on having been chosen as Golden Condor Award winners and thank them for their work in our community.

ROUGH DRAFT OF LEGISLATION TO IMPROVE QUALITY OF CARE IN NATION'S DIALYSIS CENTERS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. STARK. Mr. Speaker, I am today including in the CONGRESSIONAL RECORD the rough draft of a bill which represents several years of hard work within the kidney disease community on how to improve the quality of care for our Nation's nearly 250,000 kidney disease patients.

I am asking that the bill be printed in the RECORD in the closing hours of this session of the 105th Congress, so that interested parties can study the proposal over the next several months and offer suggestions and changes. I will be working on the bill over the coming months to develop a consensus on this effort to improve the quality of life of the Nation's kidney disease patients, and I hope to introduce it formally, with appropriate changes, when the second session meets in January.

Basically, the draft bill would create a continuous quality improvement [CQI] program that requires all providers treating end-stage renal disease patients under Medicare to provide data on the outcomes and quality of life of their patients, and to seek to improve that quality.

Those who achieve outstanding quality outcomes will be recognized for their special contributions. Those who fail to meet agreed-upon quality standards will be counseled and worked with to improve. Patients in most communities where there is more than one dialysis provider will be empowered to switch to centers which provide the better outcomes and quality. All the care givers, including the doctors, will be part of the new effort of measurement and improvement.

The result should be improved mortality and morbidity rates, improved energy levels, improved rates of return to work, and of transplantation.

Mr. Speaker, for over 23 years Medicare has been paying for the catastrophic expenses of treating end-stage renal disease, through three times a week life-giving dialysis, through transplantation, and through all the extra hospitalizations, tests, and pharmaceuticals needed by these citizens. The cost per patient per year is, counting everything, estimated between $50,000 and $60,000.

The program has been a tremendous success. It has saved enormous numbers of lives and in many cases provided a good quality of life for decades in which people have continued to contribute to their communities and loved ones.

Yet, after 23 years experience, we can and should do better. There are enormous differences between dialysis centers. After adjusting for every imaginable factor, scholars continue to find that some dialysis centers have death rates much higher than the average. To be blunt, some dialysis centers should be avoided as dangerous to one's health. Some dialysis centers seldom or never refer patients—on whom they make some money—to transplantation so that they will never again need dialysis. Some centers' patients spend many more days per year in the hospital than the ''best practice'' centers. Some centers are able to get their patients back to work; in others, a lifetime of disability and welfare becomes the norm. And as the GAO reported to Congress on September 26, the number of appropriate lab tests given to ESRD patients vary enormously among centers, raising questions of quality and of fraud and abuse.

With Medicare—not total—expenditures on ESRD patients likely to be about $9 billion in the coming year, we need to do better. We need to reduce the hospitalization rates and the unexplained death rates. We need to increase the opportunities for transplantation and for the return to work and a full range of normal activities. The draft bill would—I believe—help patients and providers work together to achieve these goals.

Finally, managed care has become a fact of life for most Americans, but most ESRD patients are not in managed care. Indeed, currently there is a prohibition on patients who reach ESRD status joining a managed care plan—although a person already in a managed care plan who reaches ESRD can stay in his or her plan. The fear has been that a managed care company could so cut access to services and quality care for these very vulnerable patients that it could lead to greatly increased patient death and illness. Until we have strong quality standards in place and know how to measure ESRD outcomes, it is dangerous to place these patients in systems designed to reduce utilization. The CQI legislation I am introducing will help ensure that for those few ESRD patients in managed care, there is a guarantee of quality. The lessons learned from this legislation will help permit the day when we could confidently entrust this population to disease management programs.

I want to thank all of the rental and patient associations who have been working with HCFA to improve quality and who have been offering suggestions for CQI legislation. In particular, I want to thank the Renal Physicians Association. This draft legislation builds on many of the ideas that are already underway in the renal community and at HCFA, and I believe it is a bill that can achieve consensus support throughout the renal community.

To repeat, I welcome additional suggestions and refinements to this proposal—and hope it is legislation that we can move forward in 1998.

TO HONOR AMERICA'S VETERANS

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. MALONEY. Mr. Speaker, I rise today to honor our Nation's veterans.

When in 1958 President Eisenhower signed the bill proclaiming November 11th Veteran's Day, he called for Americans everywhere to rededicate themselves to the cause of a lasting peace. He proclaimed that day an occasion for honoring all Veterans of all wars, a group that currently includes more than 27 million Americans, over 50,000 of whom reside in

the 5th district of Connecticut which I represent.

The 11th day of the 11th month originally was known as Armistice Day, commemorating the signing of the Armistice ending World War I. The 1958 law changed one word, Armistice to Veterans' day, and created a day for our Nation to honor all it's veterans. Also on Veterans' Day in 1958, two unidentified soldiers, one killed in Korea and one killed in World War II were brought to Arlington Cemetery and interred at the Tomb of the Unknown Soldier.

Although the name of this day has changed, the central purpose has remained consistent, the 11th day of the 11th month remains a day to honor those who have served their country on the battle fields of Europe, Korea, South East Asia, in the Persian Gulf, and in many other locations around the world. But this is not only a day to remember those who did not return. This is also a day to reaffirm our commitment to the men and women who served and returned, and to the sons and daughters, wives and husbands of those who were left behind, whether for a while or forever.

We must commit ourselves to provide our veterans with full access to the best medical care available; we must ensure that the survivors of American veterans always have adequate provision for their needs; and we must commit ourselves to bringing home those soldiers who have not yet returned from the battlefield.

Mr. Speaker, we can never forget the sacrifices our veterans have made so that we may live in peace today. And this, Mr. Speaker, is what President Eisenhower was referring to when he called for Americans everywhere to rededicate themselves to the cause of peace on this, the 11th day of the 11th month. We need to rededicate ourselves to the peace which these brave Americans have fought to secure and defend.

Mr. Speaker, on behalf of the 5th congressional district, the State of Connecticut, and Americans everywhere, I thank the veterans for their service, dedication and loyalty to our country.

PRESERVING PATIENT ACCESS TO METERED DOSE INHALERS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. SMITH of New Jersey. Mr. Speaker, when most of us think about the Food and Drug Administration [FDA], we envision an agency that works diligently to expand the universe of safe and effective medications. So when I discovered that the FDA was actually proposing to reduce the number of proven medicines available to treat asthma and cystic fibrosis patients, I knew Congress had to act on behalf of patients. As a legislator representing thousands of asthma patients, and as a father of two daughters with asthma, I am appalled that FDA might ban proven medicines patients need to survive.

As a result of these efforts by the FDA, today I am introducing legislation that will preserve access to metered dose inhalers [MDIs] for those patients suffering from respiratory conditions—particularly children suffering from asthma and cystic fibrosis. This bill will ensure that those who rely upon MDI's to breathe, will not be denied access to their lifeline by an overzealous FDA. Joining me in this effort is my good friend Florida, Representative CLIFF STEARNS. Together, Mr. STEARNS—who is the author of H.R. 2221—and I have worked together in an effort to change the FDA's misguided policy.

On March 6, 1997, the FDA initiated the first stage of a plan to phase-out the use of chlorofluorocarbons [CFC's] metered-dose inhalers [MDI's], which are used by asthma and cystic fibrosis patients to breathe. This action was taken ostensibly to protect the ozone layer, despite the fact that less than 1 percent of all ozone-depleting substances in the atmosphere are caused by metered-dose inhalers.

In fact, the amount of CFC's that the EPA allows to be released from automobile air conditioners over 1 year is about the same as 14 years of metered-dose inhaler emissions. If you combined all sources of CFC's allowed by the EPA in 1 year, it would equal 64 years of MDI emissions. And yet the only CFC products targeted for elimination this year are inhalers.

It is also interesting to note that while the FDA and EPA are rushing to eliminate CFC inhalers, they continue to allow the use of a variety of CFC products, including bear-repellent pepper sprays, document preservation sprays, and certain fire extinguishers. This is clearly a case of misplaced priorities—how can historical document sprays be considered more essential than products that protect our children's lives? And while American children and senior citizens will have their treatment regimens disrupted by the FDA's plan, nations like China and Indonesia will be pumping tons of CFC's into the atmosphere from hair sprays and air conditioners until the year 2010.

Not surprisingly, the FDA's plan has generated a firestorm of opposition from patients, respiratory therapists, and physicians: nearly 10,000 letters in opposition have been received to date by the FDA. A coalition of stakeholder organizations reviewed the FDA proposal in May and concluded that the FDA's approach banning therapeutic classes was flawed and must be re-evaluated. The patient and provider organizations also stated that the FDA plan ''has the potential to disrupt therapeutic regimens * * * and limit physician treatment options.''

It is important to institute a transition strategy that will eventually eliminate the use of CFC's. However, the FDA's proposal is deeply flawed and should be scrapped in favor of a plan that puts patients—not international bureaucrats—first.

To ensure that the interests of patients are upheld throughout the formation of our country's MDI transition strategy, this legislation will temporarily suspend the FDA's proposed framework until a new proposal can be crafted. In addition, this bill would require the FDA to consult with patients, physicians, manufacturers of MDI's and other stakeholders prior to issuing any subsequent proposal. In addition, my legislation requires the Secretary of Health and Human Services to certify to Congress that any alternatives to existing MDI's will be available to all populations of users of such inhalers, are comparable in terms of safety and effectiveness, therapeutic indications, dosage strength, cost, and retail availability.

Mr. Speaker, this past week we held a press conference in an effort to educate the public and media about the dangers of the FDA's proposal. Participating in this press conference was Tommy Farese, who is 9 years old, and lives in Spring Lake, NJ, and has had asthma since the age of 2. One of the asthma inhalers Tommy uses to breathe—Proventil—would be eliminated under the FDA plan in favor of a non-CFC version that has not been approved by the FDA for use by children. Unless the FDA's proposal is changed, Tommy could lose access to the medicine he needs to breathe and live. Why should Tommy, and 5 million children like him have to face this dilemma?

In my view, any plan to remove safe and effective medications from the marketplace needs to place the interests of children like Tommy Farese first and foremost. Sadly, the FDA plan fails in this regard. Indeed, the FDA plan presumes that CFC-free inhalers serve all patient subpopulations—such as children and the elderly—equally well, despite the fact that children have special needs and many drug therapies are not interchangeable.

Therefore, I call upon the FDA to stop their proposed ban of asthma inhalers. If the FDA insists on moving forward with their antipatient plan, I call upon my colleagues to support and pass the Smith-Stearns bill to allow asthma patients like Tommy Farese retain access to their medicine.

HONORING PIETRO PARRAVANO, ''HIGHLINER OF THE YEAR''

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to Pietro Parravano, who has recently been named the ''Highliner of the Year,'' the Nation's most respected fishing award. Pietro Parravano has devoted his career to the creation of sustainable fisheries and to the betterment of the lives of fisher men and women. He is a dedicated public servant, currently serving on the San Mateo County Harbor Commission, as a member of the Local Fisheries Impact Program, on the California Seafood Council, and as president of the Pacific Coast Federation of Fisherman's Associations. Pietro Parravano has been a goodwill ambassador for the fishing fleet, and will soon travel to New Delhi, India to represent the United States at the World Forum of Fish Harvesters and Fishworkers.

Pietro Parravano is an exceptional man, and I ask that we honor him in the House of Representatives on the eve of this most auspicious occasion.

COMMUNITY RECREATION AND CONSERVATION ENDOWMENT ACT

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. DUNCAN. Mr. Speaker, the land and water conservation fund [LWCF] was established in 1964 to increase recreational opportunities. It does this by using money, collected

mainly from oil and gas leases, to purchase Federal lands and to give matching grants to State and local governments for the development of parks and open spaces. While this fund continues to be used for Federal land purchases, very little money has been given to States to assist their efforts in preserving natural areas.

That is why I have introduced the Community Recreation and Conservation Endowment Act of 1997 today. This bill will provide funding for grants to State and local governments to develop, repair, and create new parks and preserve open spaces.

This bill will create a $1.6 billion permanent endowment to provide LWCF matching grants to local governments. Interest from that account will help provide funding for parks, campgrounds, trails, and recreation facilities for millions of Americans.

Where does this money come from? On June 19, 1997, the Supreme Court ruled that the Federal Government retains title to lands underlying tidal waters off Alaska's North Slope. As a result, the Government will receive $1.6 billion in escrowed oil and gas lease revenues.

When the land and water conservation fund was established the Federal Government promised to assist State and local governments with preserving natural areas. This legislation will make sure that the Federal Government follows through on that promise. In addition, this bill will ensure that each State receives its fair share of these funds by providing a more balanced distribution of this money between the States.

Mr. Speaker, I urge my colleagues to join me in this effort which will help preserve natural areas all across this country.

TRIBUTE TO EDDIE ROBINSON

HON. JOHN COOKSEY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. COOKSEY. Mr. Speaker, we all use the term ''One of a Kind'' but there are actually few men who are truly one of a kind. But there is a ''One of a Kind Man'' down in Louisiana and he's in my district. His name is Eddie Robinson. Why is he one of a kind? Well, for starters, he has had more than 100 of his players drafted by the National Football League. His school's stadium is named in his honor. No other football coach has ever coached for 54 seasons at the same college. And only one other man ever coached college football for that many years—period. Nobody else has won 17 Southwestern Athletic Conference championships. Nobody else has won so many ''Coach of the Year'' awards that they named the national trophy in his honor. In 1942, his Grambling State team held all nine of its opponents scoreless. It was only the second time that had ever been done and it has never been accomplished again. And nobody else has ever won 405 college football games. But the main reason I am here to praise Eddie Robinson today is that not only is he a great football coach but he is a good man. He has always appealed to the best in his players and his fans. He is an example of so many of the good things that we hold dear—loyalty, family, hard work, God, and country. So I want to pay tribute right now to a truly great American and a man who is truly one of a kind—Coach Eddie Robinson of Grambling State University.

BUDGET SURPLUSES BELONG TO WORKING AMERICANS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. DREIER. Mr. Speaker, by the end of this fiscal year, the Federal Government could run its first budget surplus in nearly three decades. This is certainly good news. For the past 30 years, deficit spending caused interest rates to be higher than they would otherwise have been, which in turn suppressed economic growth and reduced the living standards of American families. If not managed correctly, however, I am concerned that short-term budget surpluses could actually undermine the progress that Congress has made in recent years in controlling the growth of Government spending and reducing Government interference in the economy.

With Government revenues still growing faster than the rate of economic growth, and without the economic and political consequences of having to raise taxes or expand the Federal debt to pay for new spending, continued efforts to restrain the growth of Government in the face of a budget surplus will likely crumble. Already, there is pressure to spend unrealized surpluses on Washington-run programs that are no accountable for results. That's exactly what happened in the late-1960's and 1970's, when inflation-driven growth created a surge in tax revenues, which increased the Government's appetite for new spending, which in turn led to the deficits of the 1980's and early 1990's.

To deal with this potential problem, two of our Republican colleagues have proposed setting up trust funds to apply projected budget surpluses to debt reduction and tax cuts. These are certainly important priorities. According to a recent Gallop poll, 41 percent of Americans want Government surpluses to go to reducing the national debt, while 42 percent prefer tax cuts. But both proposals still require taxpayers to send their hard-earned money to a Washington bureaucracy that doesn't need it, and the distribution of those funds would be based on political incentives rather than economic incentives.

Today, my colleague from Louisiana Representative WILLIAM JEFFERSON, and I have introduced the first bipartisan bill which attempts to address the concerns about budgetary choices that Congress may make in an era of budget surplus. H.R. 2933, the Working Americans Gainful Employment [WAGE] Act, creates a permanent mechanism to impose consequences on Congress for any effort to spend a Federal surplus. It requires the Secretary of the Treasury to reduce the Social Security payroll tax rate prior to each calendar year by an amount equal to the Federal budget surplus for the fiscal year ending during the preceding calendar year. It defines ''federal budget surplus'' as the amount by which total Federal revenues exceed total Federal budget outlays—unified budget. It also stipulates that any reductions in Social Security payroll tax rates do not affect revenues that would otherwise be deposited into the trust fund.

The WAGE Act will provide desperately needed relief from a regressive tax on employment. Federal payroll taxes, paid in equal parts by employers and employees, are currently assessed at a rate of 15.3 percent of payroll beginning at the first dollar of an employee's earnings. These taxes, while necessary to finance Social Security and Medicare hospital benefits, impose a tremendous financial burden on working Americans, particularly low- and moderate-income workers. Counting the employer portion of these taxes, which are indirectly borne by employees in the form of lower wages and benefits, approximately 75 percent of American workers pay more in Federal payroll taxes than in Federal income taxes.

The WAGE Act will also promote economic growth through tax rate cuts. Although the payroll tax rate reductions would not be permanent—unless the budget surpluses are permanent—businesses will know in advance what the rate will be for the coming year, and will plan investment and hiring decisions accordingly. Since payroll taxes paid by employers result in reduced employee compensation, any long-term reduction will be funneled back into higher wages and additional jobs. A payroll tax rate reduction will also encourage more small business start-ups because such firms must pay payroll taxes even if a profit is not made.

Payroll tax rate reductions would come from after-the-fact surpluses, not estimated surpluses. The WAGE Act, therefore, would not undermine future efforts to allocate projected budget surpluses to other important priorities, such as tax reform or entitlement reform. If Congress enacts legislation allocating future estimated surplus for other priorities, there is likely to be little if any after-the-fact surplus to apply to payroll tax rate reductions. This is the key incentive that is missing from those proposals which seek to wall off future surpluses for reducing taxes of the Federal debt. The WAGE Act creates a benchmark by which other proposals to allocate future surpluses will be measured. If Congress attempts to apply projected surpluses to new spending or to tax cut efforts, those efforts would come at the expense of a payroll tax cut for working Americans.

And for those who are concerned that payroll tax cuts could undermine revenues flowing into the Social Security trust fund, the WAGE Act explicitly states that deposits into the trust fund will continue to be based on the current statutory rate of 12.4 percent of wages. In other words, the Social Security and Medicare trust funds will be totally unaffected by this legislation.

Mr. Speaker, dedicating future budget surpluses to Federal payroll tax cuts will lock in fiscal restraint while providing dividends to low- and middle-income workers who pay the bulk of those taxes. Our legislation accomplishes both of these objectives in a bipartisan way, and I urge my colleagues to join us as cosponsors of this bill.

RECOGNIZING DAN BLEDSOE

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. HUNTER. Mr. Speaker, I rise today to recognize the extraordinary service and dedication of a constituent in my district, Mr. Dan Bledsoe. Dan is a great American who has spent many years of his life defending and honoring our country with selfless service and dedication.

In 1948, Dan enlisted in the Marine Corps Reserve until 1950 when the Korean war began and his unit was called into active duty. Assigned as a scout-sniper, Dan served in several military campaigns during the war, including battles at Inchon, Seoul, and the Reservoir Campaign where 120,000 Chinese Communist troops surrounded an 18,000 U.N. troop location in North Korea. After serving his final campaign in central Korea, Dan left the Marine Corps, being promoted to Sergeant and receiving six battle decorations for his service and outstanding performance.

Dan went on to enroll in the University of San Francisco and, after graduating with a bachelor of science degree in 1955, he entered the Federal Bureau of Investigation [FBI] Academy. Dan went on to serve 25 years as a special agent with the FBI working all across the country and receiving 33 awards that stemmed from successful investigations that resulted not only with the recovery of valuable property and millions of dollars, but lives being saved as well. During this time, Dan also found the time to graduate from Pepperdine University with a master in arts degree in management.

Dan retired from the FBI in 1980 and went to work in the private sector where he continued to serve his community as a member of the Los Angeles Olympic Organizing Committee and then marketing director for the Public Safety Training Association in San Diego until 1989. Married for 42 years and father of two children, Dan currently works as a management consultant and remains active as a member of several athletic and social clubs.

Mr. Speaker, Dan is a symbol of commitment and dedication to his fellow citizens and community. He has pledged a great share of his life to the service of others and as a distinguished soldier, law enforcement officer, and businessman, he was provided his peers with a great example of what it means to be an American. Today, let us congratulate and thank Dan for his unwavering contributions, he is well deserving and I wish him great happiness in his future endeavors.

TAX REFORM

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. WELLER. Mr. Speaker, earlier this week, we passed legislation to restructure and reform the IRS. One of the things that this bill would accomplish is the establishment of an Internal Revenue Service oversight board. If any of my colleagues are wondering why we need more oversight of the IRS, I would invite them to review the statement I am enclosing in the CONGRESSIONAL RECORD today.

The statement, entitled ''If You Don't Have Two Motors, You Can't Have Your Money,'' was recently posted on the INCONGRESS Web site (www.incongress.com) by Cliff Harvison, president of the National Tank Truck Carriers. It details the plight of small business owners who have been denied a tax credit—established over 40 years ago by the Congress—for fuel used for off-highway purposes. The IRS has essentially disregarded this tax credit for ''administrative convenience.'' In other words, the IRS does not trust the taxpayer to tell the truth and does not want to take the trouble to verify factual information itself, so the IRS simply keeps the taxpayers' money.

My distinguished colleague from Nebraska [Mr. CHRISTENSEN] and I have introduced legislation, H.R. 1056, to remedy this problem and force the IRS to comply with the law Congress passed over 40 years ago. However, we have been told that the IRS opposes it. I would hope that we would, perhaps for administrative convenience ignore the IRS and pass it anyway.

Mr. Speaker, this is perhaps one of the most blatant examples of IRS arrogance that I have seen since becoming a Member of Congress. It is stories like this that so clearly justify the need for more oversight of the IRS.

At this point I would like to insert into the RECORD the document entitled ''If You Don't Have Two Motors, You Can't Have Your Money,'' which was posted on the INCONGRESS Web site by Cliff Harvison, president of the National Tank Truck Carriers. I commend it to all of my colleagues and invite them to join with me in cosponsoring H.R. 1056 to restore the off-highway tax credit and supporting H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997.

IF YOU DON'T HAVE TWO MOTORS, YOU CAN'T HAVE YOUR MONEY BY CLIFF HARVISON, PRESIDENT, NATIONAL TANK TRUCK CARRIERS

''If you don't have two motors on your truck, you can't have your money.'' That's what the IRS has told the tank truck carriers, the waste haulers, the cement mixers and others. The Congress has been hearing a lot of ''horror stories'' lately about taxpayers being wronged and ripped off by the IRS. Many of these abuses are dramatic, but few have been going on as long as the financial harm the IRS has been inflicting upon members of the National Tank Truck Carriers (NTTC) and many other small businesses. The IRS has been keeping money which legally belongs to these taxpayers for years. The IRS' reason for doing so? ''Administrative convenience.''

THE MONEY: IT BELONGS TO OUR MEMBERS, BUT THE IRS IS KEEPING IT

For over thirty years the IRS has refused to allow federal fuel tax credits to many of our members despite the fact that the law clearly states they are entitled to this money. These members pay federal highway taxes on all fuel purchased at the pump, even though some of the fuel is used for off highway purposes and should therefore, pursuant to the IRS Code, not be subject to these taxes.

Congress decided in 1951 to provide a tax credit for off-highway business use to taxpayers that pay fuel taxes. However, the IRS apparently decided long ago that it did not like the law, so it simply found a way to ignore it and keep the money anyway.

Generally speaking, off-highway use is the operation by a vehicle of some function other than driving down the road. A tank truck, for instance, consumes fuel for two purposes: first to power the truck as it drives down the street, and second, to operate the pump that loads and unloads its tanks. Operating the pump is precisely the kind of activity the Congress had in mind when it created the tax credit for ''off-highway business use.'' The tank truck operator is entitled by law to obtain a tax credit for any fuel consumed for this purpose.

THE POLICY: YOU CAN'T GET YOUR MONEY UNLESS YOU HAVE TWO MOTORS

In order to receive the credit the taxpayer is supposed to submit to the IRS an accounting of fuel usage by the vehicle which accurately reflects the amount of fuel used for non-highway purposes. However, the IRS decided that it could not trust the taxpayer. So, it decided to simply deny the credit by writing a regulation providing that, in order to qualify for the credit, you must have two separate motors on your truck—one to drive it down the road, the other to power your pump. In other words, the IRS said to the taxpayer, ''We don't trust you; we don't care how you conduct your business; we don't care what type of efficient equipment you need or use. If you want to get your money back from us, your truck must have two motors.''

THE RATIONALE: THE IRS' ''ADMINISTRATIVE CONVENIENCE IS MORE IMPORTANT THAN THE RIGHTS OF TAXPAYERS

Despite the absurdity of the ''you can't get your money unless you have two motors'' policy, when this regulation was challenged in the Tax Court, the court upheld the IRS, acknowledging that this rule existed for the IRS' ''administrative convenience.'' In other words, the court decided that the administrative convenience of the IRS was more important than the taxpayers' rights under the law. The Tax Court ruled that the IRS could keep money that the Congress said belonged to the taxpayer—or, alternatively, the IRS could force the taxpayer to go out and buy a truck with an extra motor if it wanted to get the tax credit to which the Congress said it was entitled.

THEY DON'T MAKE 'EM LIKE THAT ANYMORE

Adding to the absurdity of this policy the same decision which upholds the IRS' ''two motors or you can't get your money'' policy, which incidentally was written in 1995, contains the following information about the availability of trucks with extra motors:

''The parties have stipulated that since the early 1970's, manufacturers of vehicles have stopped producing standard vehicles that contain a separate motor to power the vehicles' separate equipment.''

IF YOU HAVE A COMPUTER YOU DON'T NEED TWO MOTORS

Aside from the fact that it is almost impossible to find vehicles for sale that have two motors, the availability and widespread use of computers which keep accurate and verifiable track of fuel usage today totally undermines the IRS' original rationale of the two-motor rule. Even if there was arguably some rationality behind the policy when it was first implemented back in the fifties, that so-called logic is no longer valid in today's world. The IRS is well aware that computers can more accurately keep track of fuel usage than can two separate motors. We have provided them with this information.

IF STATES CAN DO IT, WHY CAN'T THE FEDS?

Various states have found equitable ways that are not ''administratively inconvenient'' to either rebate or provide credits for

state fuel taxes to the same industries that are being denied the federal fuel credit by the IRS. If they can do it why can't the IRS?

''DON'T ASK, DON'T TELL'': WE CAN'T RIGHT THE WRONG BECAUSE WE DON'T KNOW HOW MUCH IT WILL ''COST''

Our members are aware that Congress must know how much something costs before it writes a law—and we are very supportive of this approach to public policy. Nevertheless, we do not believe that the federal government should have to figure out how much it will cost to stop violating a law before it decides to stop violating it.

The IRS attitude is: we don't want to discontinue our policy of keeping your money even though it doesn't belong to us, because we're not sure we can afford to stop keeping it. This is an absolute outrage. Furthermore, we have been discouraging from even finding out how much the IRS is illegally retaining every year from our members. We should at least be able to get an accounting of how much of the taxpayers' money the IRS is keeping each year. One thing we know for certain—our individual members and the small business owners throughout the country need this money, and more importantly, they are legally entitled to it. We therefore ask the Congress to immediately request an accounting of the IRS with regard to this money.

THE SOLUTION: IF THE IRS REFUSES TO IMPLEMENT REGULATIONS REFLECTING THE WILL OF CONGRESS, THEN PASS LEGISLATION TO MAKE THE IRS COMPLY WITH THE LAW

The most sensible way to resolve this would be for the IRS to acknowledge the existence of modern technology and revise its regulations to accommodate tank truck operators and others who can document off-highway usage in an accurate and verifiable way. Unfortunately, the IRS has consistently refused to accommodate the business realities facing taxpayers.

Therefore the only way to make the IRS comply with the federal law and stop them from keeping money that rightfully belongs to our members and many other hard-working owners and operators of small businesses throughout the country is to pass a law that clarifies for the IRS that a credit is a credit. We call upon Congress to do so. H.R. 1056, introduced by Representative JERRY WELLER (R–IL) and JON CHRISTENSEN (R–NE) on March 13, 1997 would accomplish this. We call upon the Congress to disregard the IRS' objections and pass this legislation, and we invite all Members of Congress who to join us in this effort by co-sponsoring H.R. 1056.

We ask the Congress to acknowledge that it should not ''cost'' the Treasury money to comply with a law that Congress has already written and disregard the IRS' refusal to comply with the law on the grounds that it would ''cost'' money or that it would be ''administratively inconvenient.'' If our members, or any other taxpayers, used either of these reasons for not complying with federal law what do you think would happen to them?

CONGRATULATIONS LEEROY CLARK

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. BARCIA. Mr. Speaker, the hallmark of our Nation is the desire of people to improve conditions for their neighbors and their communities. The Knights of Columbus, Holy Trinity Assembly 2013, is next week recognizing an individual whom I have had the privilege of knowing for some time, Mr. LeeRoy Clark. He is being honored for having dedicated himself to serving the people of Tuscola County through civic activity within a humanitarian outlook.

LeeRoy Clark is the chairman of the board of directors of the Human Development Commission. This organization provides many valuable services to people in Huron, Lapeer, Sanilac, and Tuscola Counties, ranging from food assistance to energy aid, attention to medical needs, and a host of other activities. His sincere determination is known by the many people who have benefited from his civic involvement over the years.

LeeRoy attended Michigan State University, and is a graduate of the General Motors Institute and the FDR Labor Center. A veteran of both World War II and the Korean war, he also has served as a board member of UAW Local 659, president of the Millington Parent-Teachers Association, chairman of the Red Feather Campaign, and Board Member of the Genesee County Mental Health and United Way.

His other civic involvements have included active leadership in the Democratic Party, the Urban League, American Legion, VFW, and Arbela Methodist Church. His good work is widely recognized, and he has won numerous awards from the Tuscola County Advertiser, the Saginaw News, the Michigan State Legislature, the Michigan Association of Community Action Agencies, and the National Caucus and Center of Black Aged.

The award for community service this year is being presented in memory of Father William Cunningham, a long-time civil rights activist who never knew the meaning of two words: ''no'' and ''limits''. His philosophy was that more could always be done, and that every proposal was possible with reasonable modification. His enthusiasm was ineffective and his accomplishments simply breathtaking. Any individual winning an award named in honor of Father Cunningham, whose family resides in my district, has earned an honor that will be difficult to ever match.

Mr. Speaker, I urge you and all of our colleagues to join me in congratulating LeeRoy Clark, his wife Artha, his daughters Linda, Mary, and Charlotte, on this award, and in offering our best wishes for all that the future holds for them.

REMEMBERING THE LIFE OF MARSHALL GREEN

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a man who has been a dear friend, an honorable mentor, and a distinguished community leader, Marshall Green. Two weeks ago, family and friends in California mourned as Marshall lost his courageous battle with cancer and diabetes. But with his passing, we know the memory of his spirit will carry on in those that he touched over the years.

Marshall was born in April 1919, and lived most of his life near his hometown of Los Angeles. Known by most as the nicest man they ever met, Marshall gave his all to his family, his community, and his country.

Marshall served with the U.S. Coast Guard in the Pacific Theater during World War II, seeing action from Alaska to the South Pacific. Following the war, he returned home to his native Los Angeles, where he worked for Universal Studies as an admired and distinguished production executive, working on such films as ''Jaws,'' ''Coal Miners Daughter,'' ''Airport,'' ''Earthquake,'' and ''Animal House.''

Marshall was an unfailing supporter of his beloved alma mater, the University of Southern California. And while our two schools were crosstown rivals, his devotion, pride and spirit were worthy of envy. He served USC as a distinguished alumni advisor, active member of the board of trustees, and devoted Alumni Club member. Pride in USC gave Marshall a great deal of satisfaction and honest fun. On one occasion, he secretly arranged for the renowned Trojan Marching Band to burst into a meeting at his yacht club to perform for the assembled members.

Humor was only one of Marshall's many trademarks. As the father of one of my dearest friends—and former boss from my days as a deputy district attorney, Terry Green—this is the side I remember. Marshall exuded joy in his life, family, and friends. His dedication to his family and his community was unique and genuine. Marshall leaves behind his beloved wife of 52 years, Patricia, and is survived by his children: Judge Terry Green, Michael Green, Alan Green, Ken Green, and Kelly Green.

Mr. Speaker, good friends are tough to come by, and honest friends even more so. Marshall Green was both of these to many people. In recognizing his life of service and dedication, I ask my colleagues to join with me today in saluting the life of Marshall A. Green.

RESOLUTION WITH RESPECT TO GERMAN GOVERNMENT DISCRIMINATION AGAINST MEMBERS OF MINORITY RELIGIOUS GROUPS

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. NEY. Mr. Speaker, I submit for printing in the RECORD the text of House Concurrent Resolution 22 as approved by the Committee on International Relations.

H. CON. RES. 22

CONCURRENT RESOLUTION

Expressing the sense of the Congress with respect to German government discrimination against members of minority religious groups, particularly those members who are United States citizens.

Whereas since World War II, Germany has been a friend and ally of the United States;

Whereas German government discrimination against members of minority religious groups, particularly against United States citizens, has the potential to harm the relationship between Germany and the United States;

Whereas artists from the United States associated with certain religious minorities have been denied the opportunity to perform, have been the subjects of boycotts, and have

been the victims of a widespread and well-documented pattern and practice of discrimination by German Federal, State, local, and party officials;

Whereas the 1993, 1994, 1995, and 1996 United States Department of State Country Reports on Human Rights in Germany all noted government discrimination against members of the Church of Scientology in Germany;

Whereas the German State of Baden-Wuerttemberg barred Chic Corea, the Grammy Award-winning American jazz pianist, from performing his music during the World Athletics Championship in 1993, and in 1996 the State of Bavaria declared its intention to bar Mr. Corea from all future performances at State sponsored events solely because he is a member of the Church of Scientology;

Whereas the Young Union of the Christian Democratic Union and the Social Democratic Party orchestrated boycotts of the movies ''Phenomenon'' and ''Mission Impossible'' solely because the lead actors, Americans John Travolta and Tom Cruise, are members of the Church of Scientology;

Whereas members of the Young Union of the Christian Democratic Union disrupted a 1993 performance by the American folk music group Golden Bough by storming the stage solely because the musicians are members of the Church of Scientology;

Whereas the Evangelical Christian Church of Cologne, led by an American clergyman, Dr. Terry Jones, had its tax-exempt status revoked by the German government with the reason being that the church benefits to society were of ''no spiritual, cultural, or material value'';

Whereas the German government is constitutionally obligated to remain neutral on religious matters, yet has violated this neutrality by supporting and distributing information to the general public that gives the impression that ''sect-experts'', who are openly critical of all but the major churches, are in a position to provide the public with fair, objective, and politically neutral information about minority religions;

Whereas the Jehovah's Witnesses' application for recognition as a corporation under public law, which would have put them on equal legal status with the Catholic and Protestant churches, was denied by the Federal Administrative Court because the church's doctrine of political neutrality was considered to be antidemocratic;

Whereas government officials and ''sect-experts'' are using the decision denying the Jehovah's Witnesses recognition as a corporation under public law as a justification for discriminatory acts against the Jehovah's Witnesses, despite the fact that a constitutional complaint is still pending before the German Constitutional Court;

Whereas adherents of the Muslim faith have reported that they are routinely subject to police violence and intimidation because of their ethnic and religious affiliation;

Whereas the 1994 and 1995 Reports to the Human Rights Commission of the United Nations on the application of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief by the Special Rapporteur for Religious Intolerance criticized Germany for restricting the religious liberty of certain minority religious groups;

Whereas Germany, as a signatory to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords, is obliged to refrain from religious discrimination and to foster a climate of tolerance; and

Whereas Germany's policy of discrimination against minority religions violates German obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) continues to hold Germany responsible for protecting the rights of United States citizens who are living, performing, doing business, or traveling in Germany, in a manner consistent with Germany's obligations under international agreements to which Germany is a signatory;

(2) deplores the actions and statements of Federal, State, local, and party officials in Germany which have fostered an atmosphere of intolerance toward certain minority religious groups;

(3) expresses concern that artists from the United States who are members of minority religious groups continue to experience German government discrimination;

(4) urges the German government to take the action necessary to protect the rights guaranteed to members of minority religious groups by international covenants to which Germany is a signatory; and

(5) calls upon the President of the United States—

(A) to assert the concern of the United States Government regarding German government discrimination against members of minority religious groups;

(B) to emphasize that the United States regards the human rights practices of the Government of Germany, particularly its treatment of American citizens who are living, performing, doing business, or traveling in Germany, as a significant factor in the United States Government's relations with the Government of Germany; and

(C) to encourage other governments to appeal to the Government of Germany, and to cooperate with other governments and international organizations, including the United Nations and its agencies, in efforts to protect the rights of foreign citizens and members of minority religious groups in Germany.

A TRIBUTE TO RUBYE GIBSON FOR 80 YEARS OF OUTSTANDING SERVICE TO VETERANS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. TORRES. Mr. Speaker, I rise to pay tribute to Rubye Gibson, for her 80 years of outstanding service to our veterans. On November 11, 1997, during the city of Montebello's Veterans Day ceremony, the community will honor Rubye for her lifetime of dedication to the men and women of our nation's Armed Forces.

As the last surviving president of the Ladies Auxiliary Barracks No. 5, the fifth veterans organization in the United States, Rubye demonstrated tremendous leadership during World War I. During World War II she was a mail carrier for the city of Montebello. Of the period in our Nation's history, Rubye recalls having the fortunate experience of shaking hands with Gen. Jimmy Doolittle and being invited to meet Gen. Omar Bradley. Her lifetime of experience and work with veterans has earned her the respect and admiration of her colleagues and community members.

Rubye comes from a long line of family members dedicated to serving our country. It was at the age of 13, when her brother, while fighting in France received wounds that would keep him hospitalized for 2 years, that Rubye decided the only way she could help her brother was to work with veterans. For the past 80 years, Rubye has kept her commitment to helping our Nation's veterans through her volunteer work with the Veterans of foreign Wars. To this day, she remains relentless in her effort to sell ''buddy poppies'' to help hospitalized and indigent veterans.

Along with an unwavering dedication to help our veterans, Rubye has displayed a genuine interest and concern for our community's children. In rural South Dakota, Rubye's career as a school teacher was cut short because, in that day in age, it was unacceptable for a married woman to teach. For 18 years, Rubye volunteered her time to the Dorothy Kirby Center and to the Foster Grandparent Program, where she worked with mentally disturbed children.

Mr. Speaker, it is with pride that I rise today to pay tribute to Rubye Gibson for her lifetime of service to our Nation's veterans. I ask my colleagues to join me in saluting Rubye for her 80 years of selfless commitment to the men and women who have proudly served our country in the Armed Forces.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. KIND. Mr. Speaker, another day and still no campaign finance reform. We are here on a Saturday trying to finish our legislative business. We have made an extraordinary effort to finish our work so that Members may be able to go home before Veterans Day for the rest of the year. Yet we haven't considered campaign finance reform.

With the possibility of only 1 day left in this session it is obvious that the leadership has no desire to allow a vote. This is too bad. A majority of the Members of this House have signed on to campaign finance reform legislation. A majority of the public wants to see an end to the abuses of the system. The leadership has said no. The public knows that there will be no reform passed next year, during an election year. The leadership of this House has failed the people it is sworn to represent.

AGRICULTURE RESEARCH AUTHORIZATION ACT

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mrs. CLAYTON. Mr. Speaker, I intend to vote for this bill. I look forward to research funding that can assist in finding out the cause of the fish kills in my State, and the origin of the *Pfisteria* that has plagued our waterways. I also look forward to those provisions that will be of benefit to the 1890 land grant Institutions. But, I rise to express my deep concern with the fate of this bill in conference.

Last year, this Congress pushed through major welfare reform legislation. While I supported welfare reform, I did not support those

provisions that will leave many Americans without food, without basic nutrition, hungry. Under the Senate bill, we will cut another $1.2 billion, over 5 years, from the Food Stamp Program. The savings from this new cut in food stamps will go to other agriculture programs.

Mr. Speaker, I do not oppose more funding for those agriculture programs, however, I do oppose further cuts in the Food Stamp Program.

Over 877,000 North Carolinians live in poverty. Of those poor North Carolinians, over 600,000 of them, on average, receive food stamps. Many are senior citizens and children. Last year's welfare reform bill significantly affected food stamp recipients in several ways by: cutting $27 billion from the Food Stamp Program; freezing the standard deduction, the vehicle deduction, the shelter cap and the minimum allotment; setting strict time limits on the eligibility of so-called able-bodied people between the ages of 18 and 50. These persons will only be eligible 3 months out of 36, unless they are enrolled in a work placement or training program—exceptions are made for areas of high unemployment, but only if the governor of the State requests a waiver.

Our Governor did not see fit to ask for a waiver that included all 37 areas that qualified. Our Governor only asked for a waiver that served seven areas and disqualifying most legal immigrants from receiving benefits until they become actual citizens—even though they pay taxes.

The Senate bill continues to take funds from a program for the poor. The projects that will be funded are worthy. Those who felt the brunt of last year's welfare reform bill, should now feel the relief of these savings. I hope we will provide that relief in the conference agreement on this bill.

TRIBUTE TO HYSTERCINE RANKIN

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. THOMPSON. Mr. Speaker, I rise today to pay tribute to Mrs. Hystercine Rankin. Mrs. Rankin, a quilter, received the 1997 National Heritage Fellowship. The award is the National Endowment for the Arts' most prestigious honor in folk and traditional arts.

Mrs. Rankin, a native of Port Gibson, MS, has been a quilter all of her life. She has taught many workshops throughout the State and worked with quilters to help them improve their skill. Mrs. Rankin has also influenced others to become more involved in the quilting community. She is truly an asset to the State of Mississippi.

During her trip to Washington, she had the opportunity to meet with First Lady Hillary Clinton. When asked about her new found acquaintance, Mrs. Rankin simply stated that she never knew that a needle would take her this far from home.

Mr. Speaker, it gives me great pleasure to pay tribute today to Mrs. Hystercine Rankin, one of Mississippi's precious jewels.

HELP FOR THE NATION'S COMMUNITY HEALTH CENTERS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. RANGEL. Mr. Speaker, I am today sponsoring legislation to help the Nation's frontline health delivery organizations survive the move to managed care. The bill I am introducing today will provide Medicare wraparound payments to federally qualified health centers [FQHC's] and parallels a provision in this summer's Balanced Budget Act which provided Medicaid wraparound payments to FQHC's.

FQHC's, such as community health centers [CHC's], receive about 8 percent of their revenues—or about $200 million annually—in payments for care furnished to Medicare beneficiaries. For the services they provide, health centers are on a so-called reasonable cost basis, which is designed to ensure that sufficient funds are provided to cover the costs of care.

As Medicare patients choose to move into managed care plans which include FQHC's as providers, the payment rates that the health maintenance organizations [HMO's] have been willing to pay the centers is often less than the FQHC payment described in the previous paragraph. My legislation is designed to correct this payment shortfall by providing that each FQHC will receive a supplemental wraparound payment from Medicare in an amount equal to the difference—if any—between the FQHC rate and the amount the FQHC receives from the HMO. This type of wraparound provision was included in the Balanced Budget Act for Medicaid payments, but not for Medicare. Today's bill provides parallel treatment for Medicare and Medicaid payments to these frontline health delivery organizations.

Why do these centers need an additional payment? Why can't they live with the managed care payment rate? Basically, these centers do so much additional, uncompensated care and outreach in their neighborhoods that they need what is the equivalent of a disproportionate share payment to help them finance these essential, extra services—and HMO's are unlikely to contract with providers who have these extra disproportionate share costs. If CHC's are to be able to continue their mission of service, they will need Medicare's help in financing these extra costs.

Following is a memo from the National Association of Community Health Centers elaborating on the essential work of the Nation's CHC's and explaining why these extra wraparound payments are so necessary.

WHY HEALTH CENTERS MERIT A SPECIAL WRAPAROUND PAYMENT

The current reasonable-cost reimbursement provisions for health centers were established by Congress to ensure that Medicare and Medicaid cover the reasonable cost of furnishing covered services to their beneficiaries. Underpayment to these centers is particularly onerous because the revenue to cover unreimbursed costs can only come from federal and state grants intended to support services for the uninsured and essential, non-covered services for others. Health centers cannot absorb risk for several reasons:

Their Patients: Health center patients comprise the most vulnerable populations in America today—persons who, even when insured, remain isolated from traditional forms of medical care because of where they live, who they are, and their frequently far greater levels of complex health care needs. Because of factors such as poverty or hopelessness (not to mention the social-environmental threats that permeate low income/underserved communities), health center patients are at higher risk for serious and costly conditions (diabetes, hypertension, TB, high-risk, pregnancies, HIV) than the general population.

Their History and Mission: Health centers were founded to make their services available to all in their communities, and particularly to those who can't get care elsewhere (again because of who they are and their often complex health and social problems). They have already proven their efficiency, but their fundamental mission and purpose should not be compromised by placing them at risk for the care their patients need. On the contrary, because they serve disproportionate numbers of high-risk patients, adequately compensating the health centers for their care can serve to make risk levels more reasonable for other providers.

Their Services: Health centers offer comprehensive, ''one-stop'' primary care rather than a traditional medical model for chronic and acture care. Prevention is the focus. These services need to be promoted, not restricted or reduced, as would be the case under risk based contracting. For their patients and communities, in particular, expanding the availability of preventive and primary care services will be vital in increasing access and reducing costs. Here, too, the success of managed care will depend on this.

Improving Access: As has been noted, health center patients—whose health problems are typically more serious and more complicated than it true of other Americans—frequently need special services that may not be recognized as reimbursable, but which are essential to ensure that effectiveness of the medical care provided. These services, such as multilingual/translation services, health/nutrition education, patient case management services, outreach and transportation, will need to be provided, even if they are not covered and reimbursable; thus, the centers cannot rely on their other funding sources to cover them against excessive risk.

No Reserves. Because of their historic mission and the restrictions placed on them by their funding sources, health centers have no available capital, limited marketing capability, poor and sicker patients and thus no leverage in the marketplace. Moreover, all revenues received by health centers (all of which are either public or not-for-profit organizations) are reinvested in patient care services—there are no ''profits,'' and they have no reserves to protect them against risk. Consequently placing too much risk on health centers would force them to remain outside the managed care system rather than being centrally involved.

Perhaps most importantly, development of primary and preventive care in underserved communities has been particularly effective in reducing unnecessary and inappropriate use of other settings such as emergency rooms which are much more costly. This is especially true of public-private partnerships such as the federally-assisted health center programs, which today provide care to nearly 10 million low income people in underserved rural and urban communities across the nation. Because of their experience, the health centers—together with other key community providers—form the backbone of the local health care system for most underserved people and communities, and have

had a major impact on the health of their communities.

Their presence and availability of services has significantly lowered unnecessary use of costlier, less appropriate settings such as hospital emergency rooms and ''Medicaid mills''.

Their consolidation of both preventive and comprehensive primary care services under one roof has measurably reduced the frequency and cost of preventable illnesses.

Their experience in case management has brought about a substantial reduction in specialty care and hospital admissions, saving millions of dollars for the health care system.

Despite the poorer overall health of their patients, studies have shown that health centers are tremendously effective in reducing total health care costs for their patients. Recent studies in California, Maryland, and New York show that those states incurred 30% lower cost per case for Medicaid recipients who were regular patients of community health centers than for Medicaid recipients who used other providers. These findings underscore those in a earlier 5-day study that showed significant Medicaid savings through use of health centers.

TRIBUTE TO DR. MARTIN MARTY, NATIONAL MEDAL OF HUMANITIES RECIPIENT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. LIPINSKI. Mr. Speaker, I rise today to congratulate one of my constituents from the Third Congressional District of Illinois, Dr. Martin Marty of Riverside, IL. Dr. Marty was awarded the National Medal of Humanities for his work in theology. Dr. Marty was presented his Medal by President Clinton on September 29, 1997.

Dr. Marty is a prolific writer and is the author of 50 books and over 4,300 articles. He is the senior editor of the weekly magazine Christian Century. In addition to his column in the Christian Century, Dr. Marty circulates his own biweekly newsletter entitled Context. Dr. Marty also teaches a class in religion twice a week at the University of Chicago.

The National Medal of Humanities was not the first time Dr. Marty has been recognized for his outstanding work. Dr. Marty is the holder of 56 honorary degrees from prestigious universities throughout the world.

Dr. Marty is happily married to his wife Harriet, who accompanied him to dinner at the White House. The Martys also have a son, Micah. Father and son have collaborated on several books, with father supplying the text to the spectacular photos taken by the son. The family are members of Ascension Lutheran Church in Riverside.

I urge my colleagues in the House of Representatives to join me in congratulating Dr. Marty for his fine work. He is a man of incredible spiritual insight with a gift for fine writing. Dr. Marty, I commend you for all your literary contributions and I congratulate you on your National Medal of the Humanities. I hope you continue your work and I wish you the best of luck in the future.

CONCERN ABOUT EXPORTS AND DOMESTIC CONTROLS

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. SHERMAN. Mr. Speaker, the Clinton administration policy on encryption makes no sense, is costing the United States critical export dollars, and threatens the fundamental privacy rights of all Americans in the information age.

For an administration that claims it is sympathetic to and supportive of America's high tech practitioners, what is happening today demonstrates exactly the opposite. Because for all the complexity of designing top of the line computer products and programs with information security—encryption—features, the issues here are not complex at all.

Encryption is both the first and the last line of defense against hackers who would like to get into bank accounts or pry loose credit card information that can cost consumers and businesses dearly. Encryption is crucial for protecting customers and companies from criminal intrusion into both their private lives and their businesses.

Yet the administration says it is addressing the concerns of national security and law enforcement by refusing to permit the export of software with 56 bits or greater encryption protection, unless the company agrees to commit to build key recovery products. It also suggests that the war against criminals, such as pornographers, credit card thieves, terrorists and others too numerous and too diverse to mention, will be all for naught unless government eavesdroppers are handed the keys to unlock all the billions of electronic transmissions that are made every day in today's electronic information age.

Now as ridiculous as it might seem that this administration wants the capacity to tune in on everything going through the airwaves; nevertheless, that is the tool they say they need to protect all of us from today's criminal elements. It is rather mind-boggling to contemplate how the Federal payroll might explode if the NSA and the FBI were given the opportunity to monitor the messenger traffic that goes on every day of the week. But it is also mind-boggling to contemplate the picture of Uncle Sam riding roughshod over privacy rights that have been guaranteed under our Constitution since the days of our Founding Fathers.

If American firms had a monopoly on encryption skills, and if these products were not available from anyone on either side of the Atlantic or Pacific, perhaps an argument could be made for restricting exports of products with encryption that could not be reproduced elsewhere. But that is not the case. What in fact the administration has done, and is doing, is creating, in the words of the New York Times, ''a bonanza for alert entrepreneurs outside the United States.'' And even then I see no good reason for restricting the use of encryption within the United States.

I call my colleagues attention to an article from the New York Times of April 7, 1997. It tells the story of how the German firm of Brokat Information Systems has carved out a booming business selling powerful encryption technology around the world that the United States Government prohibits American companies from exporting. This German company actually markets its products by telling potential purchasers that they shouldn't use American export-crippling products.

This should serve as a reminder that even if Congress should pass and the President should sign Fast Track authority to negotiate new trade agreements with some of our Latin American neighbors, we are not going to turn our trade deficit around if we persist on handing on a silver platter to foreign competitors markets that should be dominated by American firms.

At this point I would like to insert the article from the New York Times, of April 7, entitled ''U.S. Restrictions on Exports Aid German Software Maker.''

[From the New York Times, Apr. 7, 1997]

U.S. RESTRICTIONS ON EXPORTS AID GERMAN SOFTWARE MAKER

(By Edmund L. Andrews)

BOEBLINGEN, GERMANY, APRIL 3.—Boris Anderer and his four partners have a message for the spy masters in America's national security establishment; thank you very, very much.

Mr. Anderer is the managing director for marketing at Brokat Informationssystems G.m.b.H., a three-year-old software company here that is growing about as fast as it can hire computer programmers.

When America Online wanted to offer on-line banking and shopping services in Europe, it turned to Brokat for the software that encodes transactions and protects them from hackers and on-line bandits. When Netscape Communications and Microsoft wanted to sell Internet software to Germany's biggest banks, they had to team up with Brokat to deliver the security guarantee that the banks demanded.

But what is most remarkable is that Brokat's rapid growth stems in large part from the Alice in Wonderland working of American computer policy. Over the last two years, Brokat and a handful of other European companies have carved out a booming business selling powerful encryption technology around the world that the United States Government prohibits American companies from exporting.

Mr. Anderer could not be happier. ''The biggest limitation on our growth is finding enough qualified people,'' he said, as he strode past rooms filled with programmers dressed in T-shirts and blue jeans.

The company's work force has climbed to 110 from 30 in the last year, and the company wants to add another 40 by the end of the year.

''This company has grown so fast that I often don't know whether the people I see here have just started working or are just visitors,'' he said.

Encryption technology has become a big battleground in the evolution of electronic commerce and the Internet. As in the United States, European banks and corporations are racing to offer on-line financial services, and many of these services are built around Internet programs sold by American companies like Netscape and Microsoft.

Cryptography is crucial because it provides the only means for protecting customers and companies from electronic eavesdroppers.

Although the market for encryption software is in itself tiny, it is a key to selling technology in the broader market of electronic commerce. Encryption is the first line of defense against hackers eager to pry loose credit card information and raid bank accounts, so it plays a critical role in the sale of Internet servers and transaction-processing systems.

Brokat, which has revenues of about 10 million marks ($6 million), uses its cryptography as a door-opener to sell much more complicated software that securely links conventional bank computer systems to a bank's internet gateways and on-line services. Netscape, Microsoft and computer equipment manufacturers all include encryption in the networking systems they sell to corporations.

But the United States Government blocks American companies from exporting advanced encryption programs, because agencies like the Federal Bureau of Investigation and the National Security Agency fear that they will lose their ability to monitor the communications of suspected terrorists and criminals.

Far from hindering the spread of powerful encryption programs, however, American policy has created a bonanza for alert entrepreneurs outside the United States. Brokat's hottest product is the Xpresso Security Package, a set of computer programs that bump up the relatively weak encryption capability of Internet browsers from Netscape and Microsoft.

Besides America Online, Brokat's customers include more than 30 big banking and financial institutions around Europe. Deutsche Bank A.G. Germany's biggest bank, uses Brokat's software at its on-line subsidiary, Bank 24. Hypo Bank of Munich uses Brokat in its on-line discount stock brokerage operation. The Swiss national telephone company and the Zurcher Kantonalbank are also customers.

Among Brokat's competitors, UK Web Ltd, based in London, is marketing an equally powerful encryption program in conjunction with a Silicon Valley company C2Net Software. Recently, UK Web and C2Net boasted of selling ''full-strength'' cryptography developed entirely outside the United States.

''We don't believe in using codes so weak that foreign governments, criminals or bored college students can break them,'' the two companies said in a statement, in a stinging swipe at the American export restrictions.

Bigger companies are starting to jump into the fray as well. Siemens-Nixdorf, the computer arm of Siemens A.G., recently began marketing a high-security Internet server program that competes with products from Netscape. Companies can download the software from Siemens computers in Ireland.

There is nothing illegal or even surprising about this. The basic building blocks for advanced encryption technology, in a series of mathematical algorithms or formulas, are all publicly available over the Internet. American companies like Netscape sell strong encryption programs within the United States, and companies like Brokat are even allowed to export their product to customers in the United States.

For many computer executives, the real mystery is why the United States Government continues to restrict the export of encryption technology. ''The genie is out of the bottle,'' said Peter Harter, global public policy counsel at Netscape, who complained that American policy thwarts his company's ability to compete.

''I have a good product, and I can sell it to Citibank, but I can't sell it to Deutsche Bank,'' Mr. Harter said. ''It doesn't make any sense. Why shouldn't they be able to buy the same product at Citibank? It makes them mad, and it makes us mad.''

In response to industry complaints, American officials have repeatedly relaxed the restrictions on encryption over the last several years, and they did so again last November. But because the speed of computers has increased so rapidly, codes that seemed impenetrable just a few years ago can be cracked within a few hours.

In a policy announced last fall, the Clinton Administration announced that it would allow American companies to freely export cryptography that used ''keys'' up to 40 bits in length. The longer the key, the more difficult a code is to crack. But banking and computer executives say that 40-bit codes are no longer safe and can be cracked in as little as a few hours by skilled computer backers. The minimum acceptable code, according to many bank executives, must have keys that are 128 bits long.

''From our point of view, there is at least the possibility that a 40-bit encryption program can be broken, and that means there is a danger that our transaction processing could be compromised,'' said Bernd Erlingheuser, a managing director at the Bank 24 unit of Deutsche Bank. Bank 24 has about 110,000 customers in Germany who gain access to banking services over the Internet using either the Netscape Navigator or Microsft's Internet Explorer.

Anette Zinsser, a spokeswoman for Hypo Bank, concurred. ''Forty bits is just too low,'' she said. Hypo Bank offers Internet-based banking and discount brokerage services to about 28,000 customers.

In a country not known for high-technology start-ups, Brokat jumped at the opportunity. Mr. Anderer, a former consultant at McKinsey & Company in Germany teamed up three years ago with two fraternity friends, Michael Janssen and Stefan Roever, and two seasoned computer experts, Achim Schlumpberger and Michael Schumacher.

The group originally conceived of building a company around modular software components that were designed for the banking industry, and they financed the company for nearly two years through the money they earned from consulting projects. But they were quickly drawn in the area of encryption, and developed a series of programs around the Java technology of Sun Microsystems.

The Xpresso encryption package is installed primarily on the central ''server'' computers that on-line services use to send material to individual personal computers. Customers who want to connect to a bank's server download a miniature program, or applet, that meshes with their Internet browser program and allows the customer's computer to set up an encrypted link with the server. The effect is to upgrade the 40-bit encryption program to a 128-bit program, which is extremely difficult for outsiders to crack.

Now, in another step through the looking glass of encryption policy, Brokat is trying to export to the United States. There is no law against that, but American laws would theoretically prohibit a company that used Brokat's technology from sending the applets to their online customers overseas. So the company is now negotiating with the National Security Agency for permission to let American companies send their software overseas, which is where it started from in the first place.

It Brokat convinces the spy masters, the precedent could help American software rivals. ''This could open a new opportunity that would benefit American companies if they understand the implications,'' Mr. Anderer said.

NATIONAL COUNCIL OF SENIOR CITIZENS: KYL AMENDMENT WOULD PUT ELDERLY AND DISABLED CITIZENS AT SERIOUS FINANCIAL AND MEDICAL RISK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. STARK. Mr. Speaker, following is a letter from the National Council of Senior Citizens spelling out why the Kyl-Archer amendment is bad for seniors and the disabled and for the Medicare Program.

I urge Members to oppose this amendment. As the public begins to understand what this amendment would do, they will overwhelmingly reject this proposal and the Members who vote for it:

NATIONAL COUNCIL OF SENIOR CITIZENS,
Silver Spring, MD, October 30, 1997.

DEAR SENATOR: The National Council of Senior Citizens strongly opposes any legislation which would reopen the Balanced Budget Act (BBA) for the purpose of limiting or repealing the two-year bar to any Medicare billings after a doctor enters a private payment contract with a Medicare-eligible person. Passage of H.R. 2497, the Medicare Beneficiary Freedom to Contract Act of 1997, would decimate the Medicare program by removing cost protections while reducing the supply of doctors serving the needs of the overwhelming majority of Medicare users.

NCOA opposed, and continues to oppose, the inclusion of the original Kyl Amendment to the Medicare program. Such a provision, allowing a doctor to contract privately for medical care payments outside of the Medicare program, promises to shred three decades of essential quality, consumer, and financial protections which have been incorporated into Medicare.

As enacted, the Kyl Amendment did include the provision barring for two years another Medicare billings subsequent to an agreement for privately-paid Medicare-covered services. Clearly, this could inhibit widespread utilization of the private contract option by many doctors who have not heretofore, in large numbers, declined Medicare payments. Removal of this bar would open the Medicare program to opportunities for many doctors to coerce patients into giving up their Medicare protection in the name of ''freedom to contract.''

Fewer than 5% of all doctors decline to treat Medicare patients, and only 1% of Medicare beneficiaries have trouble finding doctors. The current doctor-patient Medicare market works well, with no shortage of physicians willing to accept Medicare payments. H.R. 2497 will allow doctors to legally pick and choose patient-by-patient, service-by-service, and dictate payment levels to vulnerable persons needing professional services. Instead of freedom, this would cripple Medicare's ability to hold down health care costs and would put elderly and disabled citizens at serious financial and medical risk.

We pledge every effort to defeat H.R. 2497 or any similar bill and to restore Medicare to its responsibility to cover the costs of an essential set of quality medical services provided by competent doctors and institutions on a uniform and universal basis.

Sincerely,

STEVE PROTULIS,
Executive Director.

WEST VIRGINIA'S SENATOR ROBERT C. BYRD HONORED

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. RAHALL. Mr. Speaker, West Virginia's senior Senator, ROBERT C. BYRD, has been named the 1997 Distinguished Legislator of the Year by the University of Michigan.

Senator BYRD is the second legislator to be so honored by the university, which began the program last year through a gift from alumnus Bertram J. Askwith, who established the program to honor contributions by a U.S. Senator or Representative and to provide support—up to $40,000 in scholarships—for a student from the honoree's home State or district to attend the University of Michigan.

In accepting the honor, Senator BYRD said ''I'm deeply appreciative of this honor, particularly because it provides the opportunity for another West Virginian to pursue a formal education.''

Senator BYRD has for years been singularly recognized as an advocate for students who are high academic achievers, have great potential, who merit student tuition assistance because of their hard work and commitment while in school, yet often do not have the means of attending college. He has helped thousands of students receive scholarships through the ROBERT C. BYRD Scholars program, funded under the Higher Education Act. These recipients are students who are not just financially needy, but who also have high grade point averages upon graduation from high school. Senator ROBERT C. BYRD has, throughout his Senate tenure, stressed the need to acknowledge students who work hard in school, are talented, and who, based on merit alone, command our help as they seek to pursue a college career.

I commend the University of Michigan for its recognition of Senator ROBERT C. BYRD as the 1997 Distinguished Legislator of the Year.

But more than that, I salute Senator ROBERT C. BYRD for having, himself, shown the remarkable, personal merit to have attracted the attention of the university to his outstanding lifetime achievements, including many years he served as majority and minority leader in the U.S. Senate, a service to his Nation that, I am confident, helped bring about this new honor as the 1997 Distinguished Legislator of the Year.

Mr. Speaker, many times I have risen to commend our beloved senior Senator from West Virginia, for his enormous heart, his unimpeachable integrity, his unique compassion and for his trustworthiness as a leader of this Nation.

Today, I rise to commend Senator BYRD for a lifetime of work dedicated to helping provide a better life and more opportunity for all people. A humble public servant, Senator BYRD strongly believes in what he himself has said is ''this miracle of a country, where anything is possible, dreams do come true, even for a poor lad from West Virginia who once gathered scraps to feed the hogs on a rough hillside farm.''

A TRIBUTE TO TRUSTEE MAY SHARP ON THE OCCASION OF HER RETIREMENT FROM THE LITTLE LAKE CITY SCHOOL DISTICT BOARD OF EDUCATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. TORRES. Mr. Speaker, I rise to pay tribute to May Sharp, who is retiring from the Little Lake City School Board after 12 years of distinguished service to the children and community of Sante Fe Springs and Norwalk, CA. On Monday, November 17, 1997, close friends, colleagues, and family members will gather to honor May at a special ceremony at the Clarke Estates in Santa Fe Springs.

As a public servant, May has vigilantly cared for the needs of the children of Little Lake. Her dedication to the education of our children is unparalleled. Elected to the Little Lake City School District Board of Education in November 1985, she has served as its clerk for four terms, vice president for two terms, and president for two terms. Her leadership has gained her the respect and admiration of her colleagues and community members. She has been selected to serve as a representative to the Los Angeles County School Trustees Association for three terms, Whittier Area School Trustees Association, Los Angeles County Committee on School District Organization, California School Board Association, and the Trustee Review Committee for the Whittier Area Cooperative for Special Education.

May has been active in education since her eldest son, Lea, entered school in 1961, joining the Lakeview PTA. As an active parent and concerned resident, she has held various chairmanships of PTA committees and served as the secretary and vice president of the PTA before being elected president in 1971. She served at Lakeview until her two sons, Lea and Robert, entered Lake Center, where she took an active role in leading that PTA. She was instrumental in the founding of the Little Lake PTA Council. She has served as an officer since its inception and as its president from 1977 to 1979 and 1981 to 1982. Even during her tenure as a member of the school board, May remained committed to the principles of the PTA and committed many hours to volunteering for PTA sponsored activities.

As a member of the Little Lake City School District Board of Education, May has diligently worked to improve the educational opportunities for all students. She has been supportive of student endeavors like the music program and Washington, DC, visit at Lake Center Middle School. She is active not only throughout the school district, but also throughout the city of Santa Fe Springs.

May has served on the city of Santa Fe Springs Beautification Committee for the past 15 years. Also, she has been Mrs. Santa on the Christmas float each year since its inception and active in the leadership of the Santa Fe Springs Women's Club. She is a supporter of the Community Red Cross Holiday Celebrity Chefs, Santa Fe Springs Chamber of Commerce Destiny Scholarship, and the Santa Fe Springs Community Play House.

May's husband, Al Sharp, serves on the Santa Fe Springs City Council. Along with their two sons, Lea and Robert, daughters-in-law Annie and Lisa, May and Al have two granddaughters, Crystalyn and Candice, who attend school and in the Little Lake City School District.

Mr. Speaker, is it with pride that I rise today to pay tribute to May Sharp on the occasion of her retirement from the Little Lake City School District Board of Education after 12 years of distinguished service. I ask my colleagues to join me in saluting May Sharp for her years of unwavering commitment to our children and her determination to providing the best possible education for our youth.

PEOPLE OF CUBA

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. ANDREWS. Mr. Speaker, I rise today to speak on behalf of the thousands of Cubans who have no voice, for they have no freedom.

On Wednesday, November 5, 1997, yet another resolution was passed by the U.N. General Assembly, condemning our country's economic sanctions against the megalomaniacal dictator, Fidel Castro. One hundred forty-three other nations, including our good trading partners from Europe, Canada, and Japan voted in support of Castro and against the United States. What those countries fail to realize is that they are working against the freedom loving people of Cuba.

For Americans, Cuba, is in many ways, a family matter for us. Hundreds of thousands of Cuban families have been separated on opposite sides of the Florida Straits for years. Cuban-Americans, refugees really from war, have long dreamed to someday be reunited with family and to see their homeland free once again. Unless strong steps are taken to end the Castro regime, that dream will remain just that—a dream. Standing up to Cuba, standing against Castro and his dictatorship, is the only way to turn those dreams into reality. Using our economic leverage makes it clear to the people of Cuba there is no reconciliation with Fidel Castro, there is no compromise, and it is time to bring the dictatorship to a close. We do this as we did against South Africa with apartheid and as we do today against Iraq.

I am filled today more with sorrow than with anger that our allies, our friends, would support the continuation of oppression and tyranny. However, on this most recent vote, I am gratified that we were joined by two distinguished voices for freedom: Israel and Uzbekistan. These two nations have faced and conquered the obstacles that stand in the way of freedom and realize that freedom, and its bounty, is the fundamental human right.

Castro has had a wall put up around Cuba for almost 40 years. It is our duty, as the pillar of democracy, to tear down those walls and bring freedom to the people yearning for it. I am reminded of Robert Kennedy's words, which are so appropriate now. ''Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance.''

The walls today stand between the people of Cuba and freedom and were built by Castro. Those walls must come down. America must tear them down. If the United States has to stand alone against Cuba's violent dictatorship, then so be it.

INTRODUCTION OF A RESOLUTION CONDEMNING DISCRIMINATION AGAINST ASIAN AND PACIFIC ISLANDER AMERICANS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Ms. ESHOO. Mr. Speaker, I rise today to introduce a resolution expressing the sense of Congress that all prejudice against Asian and Pacific Islander-Americans in the United States should be condemned, and that Congress should support the political and civic participation of these Americans through the United States.

I am introducing the resolution at this time when Congress is conducting investigations into possible campaign fundraising violations during the 1996 campaigns. No one disagrees that investigations into legitimate campaign fundraising problems should be conducted or that any individual or party that may have participated in illegal activities should be prosecuted regardless of ethnicity. However, I'm concerned that the tone set by the congressional investigations into possible campaign finance violations may increase biased treatment of Asian and Pacific Islander-Americans.

Media coverage of the figures being questioned, who are of Asian descent, and of alleged contributions by Asian nations has created a perception that Asian and Pacific Islander-Americans as a group should be blamed for the problems of campaign fundraising arising from prohibited from owning property. Under the Alien Land Act passed in California, aliens ineligible to citizenship were prevented from owning land. Other States followed suit and enacted similar laws.

Perhaps the most egregious civil rights violation against Asian or Pacific Islander-Americans was the internment of over 120,000 people of Japanese descent during World War II. Two-thirds of them were American citizens. They were denied their constitutional rights, forced from their homes, incarcerated in internment camps, surrounded by barbed wire, and placed under surveillance of armed guards. Their allegiance to the United States was questioned only because they were of Japanese descent. Not until 1988, when former Representative Norm Mineta introduced legislation to right this historic injustice, was an apology made by the U.S. Government to those interned during the Second World War.

Although anti-immigrant laws were later repealed, those interned received a formal apology, and significant gains have been made by the Asian and Pacific Islander community in the United States, there is still much work to be done to fight discrimination against these citizens.

Asian and Pacific Islander-Americans continue to face racially motivated bigotry and violence, just as they did when their ancestors arrived in this country over 150 years ago. The 1992 report: Civil Rights Issues Facing Asian Americans in the 1990's by U.S. Commission on Civil Rights recounts numerous incidents of bigotry and violence over the last two decades. The National Asian Pacific American Legal Consortium's 1996 Audit of Violence Against Asian the 1996 elections. Reporters contacted donors of Asian descent simply because they were Asian when the story of possible contributions from Asian nations broke. The media has also used offensive racial stereotypes to depict the fundraising violation problem. For instance, the March 24, 1997, cover of the National Review depicted the President, Vice President, and the First Lady in Asian dress and stereotypically racist physical features.

I am also disturbed by stories of congressional activities possibly driven by racial stereotypes. For instance, by colleague, Representative MORAN, described on the floor last week the story of a constituent who received a subpoena for the telephone records of his wife from the House Committee on Government Reform and Oversight just because she has a Chinese surname.

The United States has a long, sordid history of discrimination against Asian and Pacific Islander-Americans. The Chinese Exclusion Act of 1882 limited the number of Chinese immigrants admitted into the United States. It was the first and only immigration law in American history that targeted a specific nationality and was passed due to growing anti-Chinese sentiment created by white laborers competing for jobs. It wasn't repealed until 1943.

The Gentlemen's Agreement of 1908 prohibited Japanese immigration, and the National Origins Quota System limited the number of immigrants from Asian nations.

At the beginning of our Nation, the Founders limited the eligibility for citizenship to free white persons only. In the early 1900's, laws restricting citizenship led to Asian immigrants being Pacific Americans found an increase of 17 percent of anti-Asian incidents reported for 1996 from the previous year. This is particularly disturbing since violent crimes on the whole for 1996 decreased by 7 percent.

In recent months, we have seen incidents of racially motivated violence and harassment toward Asian and Pacific Islander-Americans to discourage their political participation. Students on a University of California campus protesting the antiaffirmative initiative, proposition 209, received chilling hate calls. Asian or Pacific Islander-Americans running for political offices in California, Ohio, and Washington reported their campaign materials vandalized with racial slurs.

Mr. Speaker, the resolution I am introducing reaffirms the rights of the Pacific Islander-American community and underscores the need to protect and advance the civil and constitutional rights of all Americans. I urge my colleagues to do the same and support this resolution.

WOMEN-OWNED BUSINESSES

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Ms. MILLENDER-McDONALD. Mr. Speaker, I am proud to announce that today my colleague, SUE KELLY, and I introduced an important resolution which recognizes important findings and makes recommendations on ways to assist women-opened businesses obtain more Federal procurement opportunities.

On September 25 of this year, we cochaired an unprecedented bipartisan forum addressing the vast growth of women-owned firms and the contrasting poor rate of procurement to these firms. This was a historic day for women business owners, for it was the first time that women business owners have ever convened on Capitol Hill to share their stories with members of the Congressional Caucus on Women's Issues.

On that historic day, the problems contributing to the dismal Federal procurement rate of 1.8 percent to women-owned firms became painfully clear. Despite the 5 percent Federal procurement rate goal which Congress established in 1994, the procurement rate remains low because of the lack of access to the Federal contracting process, the bundling of contracts frequently excluding small women-owned businesses, the ineffective outreach to women business owners, the poor and often incomplete feedback which is provided to businesses when their bid is not accepted, and the need for one certification for all women-owned businesses.

The sense of Congress resolution we have introduced today is the first step in our plan to address these problems and ensure that there is indeed a level and fair playing field for all business owners. I am fully committed to ensuring that this goal is met and that women-owned businesses are given equal opportunity to obtain a piece of the more than $200 billion annual procurement pie. Women-owned businesses are growing at nearly twice the rate of all other U.S. firms, employ 18.5 million people, and produce $2.38 trillion in revenues to the U.S. economy every year. We simply cannot allow this discrepancy to continue.

There is a wealth of knowledge and skills steeped within these women-owned businesses that we as an economic leader in the global marketplace cannot afford to ignore. Today, we take this first step to recognize the contributions the more than 8 million women-owned businesses are making to strengthen our economy. In the coming months, I will continue to recognize these achievements and take concrete actions to ensure equality of opportunity in obtaining Federal contracts.

ELECTRONIC FINANCIAL SERVICES EFFICIENCY ACT OF 1997

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. BAKER. Mr. Speaker, today I am introducing the Electronic Financial Services Efficiency Act of 1997. This bill is designed to provide a uniform nationwide framework to encourage the use and validity of electronic authentication.

New forms of electronic communication are being utilized as an alternative to paper-based documentation and correspondence. Computers are now routinely used to initiate and execute a substantial and growing number of personal, business, and financial transactions. As a result, the problem of authenticating the

identity and the signature of parties using computers has become a major concern. Unless a reliable alternative to written signatures is acknowledged, the promise of electronic commerce will not be fully realized.

State legislatures have recognized this need. At the present time 30 States have enacted or have introduced some form of digital authentication law. Unfortunately, these State statutes lack uniformity both in scope and application. Electronic communications and commerce take place on the Internet or elsewhere in cyberspace. Therefore, State boundaries have little relevance and conflicting State electronic authentication laws may ultimately inhibit the development of electronic commerce.

The bill I am introducing today is designed to address the issue of conflicting and confusing developments under current and proposed State law. The purpose of the Electronic Financial Services Efficiency Act of 1997 is threefold: First, to provide for the recognition of digital and other forms of authentication as an alternative to existing paper-based methods, second, to improve the efficiency and soundness of the Nation's capital markets and payment system, and third, to harmonize the practices, customs and uses applicable to electronic authentication on a uniform, nationwide basis.

The first goal is accomplished by explicitly recognizing that all forms of electronic commerce that comport with specific, basic statutory standards shall have parity with written signatures. As a result, they will be considered valid for all communications with Federal agencies, U.S. Courts and other instrumentalities of the U.S. Government.

In order to minimize confusion and encourage uniform national treatment, unless the laws of a State otherwise expressly provide, all forms of electronic authentication that comport with the Federal statutory standards shall have the same standing as written signatures for all legal purposes.

The second goal is met by the establishment of the National Association of Certification Authorities [NACA]. Any person or group that wishes to provide electronic authentication services in the United States must be a registered NACA member. The NACA may admit any person or group to membership, provided they are licensed and provide electronic authentication services consistent with the standards set forth in this act.

The third goal is met by the creation of an Electronic Authentication Standards Review Committee within the NACA. Overseen by the Secretary of the Treasury, the Standards Review Committee shall establish, develop, and refine criteria to be applied to new electronic authentication methods, consistent with the specific standards set forth in the Electronic Financial Services Efficiency Act of 1997.

Recognizing that digital authentication will be used in retail transactions, this legislation requires that consumers be notified of the fact that an electronic communication or transaction has been digitally authenticated. Furthermore, the act states that any rights currently afforded to consumers in underlying transactions are not in any manner impaired or weakened. Additionally, the Standards Review Committee has the authority to address consumer protection by exercising its rulemaking and enforcement powers.

Mr. Speaker, I believe that this legislation will authorize and validate the use of electronic authentication. It will also encourage innovation and stimulate competition in the design and use of reliable state-of-the-art digital technology.

RECOGNIZING THE SERVICE OF ALICE PETROSSIAN

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a woman who had dedicated her career to serving students throughout California and our Nation—Alice Petrossian. Now more than ever, we must encourage our teachers to be their best, push our students to work hard and set goals, and invest in strengthening our education system. Recently, this dear friend and educator was awarded the Professional of the Year award by the Armenian Professional Society for her ongoing commitment as an educator.

Alice began her career at California State University Los Angeles, earning both her bachelor's and master's degree before heading to California State University Hayward to pursue her teaching credential. He work toward excellence in education was recognized early on as she received the Most Outstanding Graduate award at both schools.

Alice then moved back to southern California where she became actively involved with the Glendale Unified School District serving recently as the director of special projects and intercultural programs. She has received much recognition for her service, and her talents have been called upon by each of the last three Governors of California.

Alice has served on the California Community College Board, the California Post Secondary Education Board, and has worked with the Commission for the Establishment of Academic Content and Standards to ensure that quality curricula are united with well-prepared teachers offering our children the tools necessary for the future.

Alice's most important work goes beyond any committee or board on which she might serve. Since her arrival in Glendale, she has reached out to students of all backgrounds. Alice has put faith in at-risk students, and those that might slip through the cracks. Her efforts to provide quality education for all students have distinguished her as a friend of education.

Alice has gone above and beyond the call of duty by establishing scholarship funds, promoting mentoring programs, and working to benefit all students. The greatest honor she can receive, and the greatest thanks we can offer is by witnessing the change in the lives of every student she has touched. In recogniaiton of her commitment to edcuation, and to the students of California and our Nation, I ask my colleagues to join me today in saluting the service of Alice Petrossian.

TRIBUTE TO IRSHAD-UI-HAQUE

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a man who has exemplified the spirit and determination of what makes American great—Irshad-UI-Haque. Irshad has built a career as a devoted family man, successful entrepreneur, and compassionate community leader. He has cleared many hurdles in life, and always come out with a compassion for his fellow man and a personal commitment to make a difference.

In 1960, Irshad come to the United States from Pakistan with very little money and speaking very little English. However, he was not deterred. He labored exhaustingly long hours in a sweatshop for a paltry $1.00 per hour. With an eye on his future, he dedicated himself to learning English, pursuing an academic career, and working to make the most of his future.

Irshad attended classes when not working, and moved on from Pasadena City College to the University of Southern California, where he earned a degree in business. Following graduation, Irshad spent over 10 years working for the Xerox Corp. where his talent was quickly recognized.

In 1972, Irshad and his wife took a gamble. They opened Bantam Associates and eventually turned a family-owned property management company into the parent of one of the largest storage and archive management firms in the Nation. He will quickly shy away from claiming too much success for his achievements, the biggest credit he will pay to his wife and his daughters.

Irshad leads by example, and has been deeply involved in many philanthropic organizations. He has dedicated his time and resources to the Los Angeles Police Department, the Boy Scouts of America, various chambers of commerce and service organizations, and to health care agencies serving the elderly and poor. Because of his many acts of service, Irshad was awarded the Glendale Man of Achievement Award last week by the Glendale News Press.

Irshad Haque has taken his thread of knowledge, determination, and compassion and woven it into a shinning example of what makes our country whole. In recognition of his selection for the Man of Achievement honor, and in gratitude for his service to his community, I ask my colleagues here today to join me in thanking and congratulating a great American, Irshad-UI-Haque.

Sunday, November 9, 1997

Daily Digest

HIGHLIGHTS

Senate passed Omnibus Appropriations, 1998.

The House passed H.J. Res. 105, making further continuing appropriations through Friday, November 14, for fiscal year 1998.

Senate

Chamber Action

Routine Proceedings, pages S12217–S12282

Measures Introduced: Twenty bills and six resolutions were introduced, as follows: S. 1493–1512, S. Res. 150–154, and S. Con. Res. 67. **(See next issue.)**

Measures Reported: Reports were made as follows:

Reported on Saturday, November 8, 1997:

S. 927, to reauthorize the Sea Grant Program. (S. Rept. No. 105–150)

S. 1213, to establish a National Ocean Council, and a Commission on Ocean Policy, with an amendment. (S. Rept. No. 105–151)

S. 1354, to amend the Communications Act of 1934 to provide for the designation of common carriers not subject to the jurisdiction of a State commission as eligible telecommunications carriers.

Reported today:

H.R. 1271, to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 through 2000, with an amendment in the nature of a substitute. (S. Rept. No. 105–152) **(See next issue.)**

Measures Passed:

Omnibus Appropriations: Senate passed H.R. 2607,making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, after agreeing to the following amendment proposed thereto: **Pages S12258–71**

Stevens/Byrd Amendment No. 1621, in the nature of a substitute. (The amendment makes appropriations for the government of the District of Columbia, foreign operations, export financing, and related programs, and the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998.) **Pages S12258–71**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair appointed the following conferees: Senators Stevens, Specter, Domenici, McConnell, Shelby, Gregg, Bennett, Campbell, Faircloth, Hutchison, Cochran, Byrd, Inouye, Hollings, Leahy, Bumpers, Lautenberg, Harkin, Mikulski, Murray, and Boxer. **Page S12271**

D.C. Student Opportunity Scholarship Act: Senate passed S. 1502, entitled ''The District of Columbia Student Opportunity Scholarship Act''. **Pages S12271–77**

Homeowners Protection Act: Senate passed S. 318, to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, and to abolish the Thrift Depositor Protection Oversight Board, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto: **(See next issue.)**

Sessions (for D'Amato/Sarbanes) Amendment No. 1623, in the nature of a substitute.

Disapproving Cancellations on Military Construction Appropriations: Senate passed H.R. 2631, disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45, Military Construction Appropriations Act, clearing the measure for the President. **(See next issue.)**

Comprehensive One-Call Notification Act: Senate passed S. 1115, to amend title 49, United States Code, to improve the one-call notification process. **(See next issue.)**

Technical Corrections: Senate passed S. 1505, to make technical and conforming amendments to the Museum and Library Services Act. **(See next issue.)**

Dallas, Texas Women's Museum: Senate agreed to S. Con. Res. 67, expressing the sense of Congress that the museum entitled ''The Women's Museum: An Institute for the Future'', in Dallas, Texas, be designated a millennium project for the United States. **(See next issue.)**

Amending Senate Rules: Senate agreed to S. Res. 151, to amend the Standing Rules of the Senate to require the Committee on Rules and Administration to develop, implement, and update as necessary a strategic planning process for the functional and technical infrastructure support of the Senate. **(See next issue.)**

Professional Boxing Safety Act Amendments: Senate passed S. 1506, to amend the Professional Boxing Safety Act (P.L. 104–272). **(See next issue.)**

Post Office Naming: Senate passed H.R. 2564, to designate the United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the ''Peter J. McCloskey Postal Facility'', clearing the measure for the President. **(See next issue.)**

Post Office Naming: Senate passed H.R. 282, to designate the United States Post Office building located at 153 East 110th Street, New York, New York, as the ''Oscar Garcia Rivera Post Office Building'', clearing the measure for the President. **(See next issue.)**

Post Office Naming: Senate passed H.R. 681, to designate the United States Post Office building located at 313 East Broadway in Glendale, California, as the ''Carlos J. Moorhead Post Office Building'', clearing the measure for the President. **(See next issue.)**

Post Office Naming: Senate passed H.R. 2129, to designate the United States Post Office located at 150 North 3rd Street in Steubenville, Ohio, as the ''Douglas Applegate Post Office'', clearing the measure for the President. **(See next issue.)**

Post Office Naming: Senate passed H.R. 1057, to designate the building in Indianapolis, Indiana, which houses the operations of the Indianapolis Main Post Office as the ''Andrew Jacobs, Jr. Post Office Building'', clearing the measure for the President. **(See next issue.)**

Post Office Naming: Senate passed H.R. 1058, to designate the facility of the United States Postal Service under construction at 150 West Margaret Drive in Terre Haute, Indiana, as the ''John T. Myers Post Office Building'', clearing the measure for the President. **(See next issue.)**

Indian Development Trust Fund: Senate passed S. 156, to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, after agreeing to committee amendments. **(See next issue.)**

Federal Judiciary Protection Act: Senate passed S.1189, to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, after agreeing to the following amendment proposed thereto: **(See next issue.)**

Sessions (for Feinstein) Amendment No. 1624, to increase the maximum term of imprisonment for assaulting, resisting, or impeding certain officers or employees. **(See next issue.)**

National American Indian Heritage Month: Committee on the Judiciary was discharged from further consideration of S. Res. 145, designating the month of November 1997 as ''National American Indian Heritage Month'', and the resolution was then agreed to. **(See next issue.)**

Senate Legal Counsel Representation: Senate agreed to S. Res. 152, to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in *City of New York, et al.* v. *William Clinton, et al.*, and related cases. **(See next issue.)**

Document Production Authority: Senate agreed to S. Res. 153, to authorize production of Senate documents and representation by Senate Legal Counsel in the case of *Sherry Yvonne Moore* v. *Capitol Guide Board*. **(See next issue.)**

Senate Legal Counsel Representation: Senate agreed to S. Res. 154, to authorize representation by Senate Legal Counsel. **(See next issue.)**

Mammography Quality Standards Reauthorization Act: Committee on Labor and Human Resources was discharged from further consideration of S. 537, to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program, and the bill was then passed. **(See next issue.)**

U.S. Courthouse Naming: Committee on Environment and Public Works was discharged from further consideration of H.R. 1479, to designate the Federal building and United States courthouse located at 300 Northeast First Avenue in Miami, Florida, as the ''David W. Dyer Federal Courthouse'', and the bill was then passed, clearing the measure for the President. **(See next issue.)**

U.S. Courthouse Naming: Committee on Environment and Public Works was discharged from further consideration of H.R. 1484, to redesignate the Dublin Federal Courthouse building located at 100

Franklin Street in Dublin, Georgia, as the J. Roy Rowland Federal Courthouse, and the bill was the passed, clearing the measure for the President.

(See next issue.)

Technical Corrections/National Defense Authorization: Senate passed S. 1507, to amend the National Defense Authorization Act for Fiscal Year 1998 to make certain technical corrections.

(See next issue.)

Authority Clarification/National Defense Authorization: Senate passed S. 1511, to amend section 3165 of the National Defense Authorization Act for Fiscal Year 1998 to clarify the authority in the section. **(See next issue.)**

Eligible Telecommunications Carriers: Senate passed S. 1354, to amend the Communications Act of 1934 to provide for the designation of common carriers not subject to the jurisdiction of a State commission as eligible telecommunications carriers.

(See next issue.)

Indian Judgment Funds: Senate passed H.R. 1604, to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18–E, 58, 364, and 18–R before the Indian Claims Commission, after agreeing to the following amendments proposed thereto: **(See next issue.)**

Sessions (for Murkowski) Amendment No 1625, to limit the number of health care contracts and compacts that the Indian Health Service may execute for the Ketchikan Gateway Borough. **(See next issue.)**

Sessions (for Inouye) Amendment No. 1626, to provide for the treatment of funds in relation to other laws. **(See next issue.)**

Sessions (for Inouye) Amendment No. 1627, to provide for a technical correction to Section 2 concerning the Sault Ste. Marie. **(See next issue.)**

Telemarketing Fraud Prevention Act: Senate passed H.R. 1847, to improve the criminal law relating to fraud against consumers, after agreeing to a committee amendment in the nature of a substitute, and the following amendments proposed thereto: **(See next issue.)**

Sessions (for Leahy) Amendment No. 1628, to prohibit false advertising or misuse of a name to indicate the United States Marshals Service.

(See next issue.)

Sessions (for Harkin) Amendment No. 1629, to combat telemarketing fraud through reasonable disclosure of certain records for telemarketing investigations. **(See next issue.)**

Commemorative Coin Program: Senate passed S. 1228, to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, after agreeing to a committee amendment, and the following amendments proposed thereto: **(See next issue.)**

Sessions (for D'Amato/Sarbanes) Amendment No. 1631, to establish a rule of construction.

(See next issue.)

Sessions (for Coats) Amendment No. 1632, relating to coinage. **(See next issue.)**

Continuing Appropriations: Senate passed H.J. Res. 104, making further continuing appropriations for the fiscal year 1998, clearing the measure for the President. **(See next issue.)**

FDA Administration Modernization and Accountability Act—Conference Report: Senate agreed to the conference report on S. 830, 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.

Pages S12241–52

Senior Citizens Home Equity Protection Act: Senate concurred in the amendments of the House to S. 562, to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage, with the following amendment proposed thereto: **(See next issue.)**

Sessions (for D'Amato) Amendment No. 1630, in the nature of a substitute. **(See next issue.)**

Nominations Confirmed: Senate confirmed the following nominations:

Frank C. Damrell, Jr., of California, to be United States District Judge for the Eastern District of California.

Martin J. Jenkins, of California, to be United States District Judge for the Northern District of California.

A. Richard Caputo, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

Dale Cabaniss, of Virginia, to be a Member of the Federal Labor Relations Authority for a term expiring July 29, 2002.

Raymond G. Kammer, of Maryland, to be Director of the National Institute of Standards and Technology.

Robert H. Beatty, Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for the remainder of the term expiring August 30, 1998.

Ernesta Ballard, of Alaska, to be a Governor of the United States Postal Service for a term expiring December 8, 2005.

Arthur Bienenstock, of California, to be an Associate Director of the Office of Science and Technology Policy.

Janice R. Lachance, of Maine, to be Director of the Office of Personnel Management for a term of four years.

Kevin Gover, of New Mexico, to be an Assistant Secretary of the Interior.

William R. Ferris, of Mississippi, to be Chairperson of the National Endowment for the Humanities for a term of four years.

Susanne T. Marshall, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2004. **Page S12282**

Messages From the House: **(See next issue.)**

Measures Referred: **(See next issue.)**

Measures Read First Time: **(See next issue.)**

Statements on Introduced Bills: **(See next issue.)**

Additional Cosponsors: **(See next issue.)**

Amendments Submitted: **(See next issue.)**

Additional Statements: **(See next issue.)**

Adjournment: Senate convened at 1 p.m., and adjourned at 8:50 p.m., until 10 a.m., on Monday, November 10, 1997. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S12281.)

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

Bills Introduced: 46 public bills, H.R. 2977–3023; and 10 resolutions, H.J. Res. 104–105, H. Con. Res. 192–195, and H. Res. 317, 318, 320, 321, were introduced. **(See next issue.)**

Reports Filed: Reports were filed as follows:

Conference report on S. 830, Food and Drug Administration Modernization and Accountability Act of 1997 (H. Rept. 105–399); and

H. Res. 319, providing for consideration of S. 738, to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak (H. Rept. 105–400); **Pages H10452–78 (continued next issue.)**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Emerson to act as Speaker pro tempore for today. **Page H10423**

Question of Privilege of the House: The Chair ruled that H. Res. 318, relating to a question of the privileges of the House, did constitute a question of privilege of the House and was in order. Subsequently, agreed to table the resolution by a yea-and-nay vote of 218 yeas to 194 nays with 1 voting ''present'', Roll No. 622. **Page H10428**

Radio Free Asia Act: The House passed H.R. 2232, to provide for increased international broadcasting activities to China by a yea and nay vote of 401 yeas to 21 nays, Roll No. 623. **Pages H10428–35**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on International Relations now printed in the bill was considered as adopted. **Page H10429**

On November 5, the House agreed to H. Res. 302, the rule that provided for consideration of H.R. 2232 and eight other measures relating to the policy of the United States and China. Subsequently, on November 6, further agreed that the Clerk be authorized to make technical corrections in the engrossment of any measure made in order under the rule, to include corrections in spelling, punctuation, section numbering, and cross-referencing, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House. **Pages H10054–63**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Morella to act as Speaker pro tempore to sign enrolled bills and joint resolutions for the remainder of the 1st Session of the 105th Congress. **Page H10435**

Transportation and Infrastructure Committee: Read a letter from the Chairman of the Committee on Transportation and Infrastructure wherein he transmitted resolutions approved by the committee on Wednesday, November 5—referred to the Committee on Appropriations. **Page H10435**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Extending Veterans Housing and Other Programs: S. 714, amended, to extend and improve the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs, to extend certain authorities of the Secretary of Veterans Affairs relating to services for homeless veterans, to extend certain other authorities of the Secretary—

clearing the measure for the President. Agreed to amend the title; **Pages H10424 (continued next issue)**

SBA Reauthorization: Agreed to the Senate amendment to the House amendment to S. 1139, to reauthorize the programs of the Small Business Administration—clearing the measure for the President; **(See next issue.)**

Microcredit for Self-Reliance Act: H.R. 1129, amended, to establish a program to provide assistance for programs of credit and other assistance for microenterprises in developing countries (passed by a yea and nay vote of 393 yeas to 21 nays, Roll No. 624); **(See next issue.)**

EXPO 2000 In Hanover, Germany: H. Con. Res. 139, expressing the sense of Congress that the United States Government should fully participate in EXPO 2000 in the year 2000, in Hanover, Germany, and should encourage the academic community and the private sector in the United States to support this worthwhile undertaking (agreed to by a yea and nay vote of 415 yeas to 2 nays, Roll No. 626). Agreed to amend the title; **(See next issue.)**

FDA Modernization and Accountability Act: The House agreed to the Conference Report on S. 830, Food and Drug Administration Modernization and Accountability Act of 1997—clearing the measure for the President. **(See next issue.)**

Self-Determination for Western Sahara: H. Res. 245, amended, expressing the sense of the House of Representatives in support of a free and fair referendum on self-determination for the people of Western Sahara; **(See next issue.)**

Human Rights In Afghanistan: H. Con. Res. 156, amended, expressing concern for the continued deterioration of human rights in Afghanistan and emphasizing the need for a peaceful political settlement in that country; **(See next issue.)**

Savings Are Vital to Everyone's Retirement Act: Agreed to the Senate amendment to H.R. 1377, to amend title I of the Employee Retirement Income Security Act of 1974 to encourage retirement income savings—clearing the measure for the President; **(See next issue.)**

Fire Administration Authorization: S. 1231, to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration—clearing the measure for the President; **(See next issue.)**

Stanislaus County, California Land Conveyance: H.R. 112, to provide for the conveyance of certain property from the United States to Stanislaus County, California. **(See next issue.)**

Auburn Indian Restoration Amendment Act: H.R. 1805, to amend the Auburn Indian Restoration Act to establish restrictions related to gaming on and use of land held in trust for the United Auburn Indian Community of the Auburn Rancheria of California; **(See next issue.)**

Western United States Water-related Facilities: H.R. 2402, amended, to make technical and clarifying amendments to improve management of water-related facilities in the Western United States; **(See next issue.)**

Jimmy Carter National Historic Site: S. 669, to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site—clearing the measure for the President; **(See next issue.)**

Arches National Park, Utah: H.R. 2283, to expand the boundaries of Arches National Park in the State of Utah to include portions of the following drainages, Salt Wash, Lost Spring Canyon, Fish Sheep Draw, Clover Canyon, Cordova Canyon, Mine Draw, and Cottonwood Wash, which are currently under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Sheep Draw, which is currently owned by the State of Utah. Agreed to amend the title; **(See next issue.)**

James L. Foreman United States Courthouse: H.R. 1502, to designate the United States Courthouse located at 301 West Main Street in Benton, Illinois, as the "James L. Foreman United States Courthouse"; **(See next issue.)**

Uniform Relocation Assistance and Real Property Acquisition Policies: S. 1258, to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act—clearing the measure for the President; **(See next issue.)**

Cleveland, Ohio Land Conveyance: S. 1347, to permit the city of Cleveland, Ohio, to convey certain lands that the United States conveyed to the city—clearing the measure for the President; **(See next issue.)**

Pilot Records Improvement Act: H.R. 2626, amended, to make clarifications to the Pilot Records Improvement Act of 1996; **(See next issue.)**

Families of Passengers Involved in Foreign Air Carriers Aircraft Accidents: H.R. 2476, amended, to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers; **(See next issue.)**

Export-Import Bank Reauthorization: Conference report on S. 1026, to reauthorize the Export-Import Bank of the United States—clearing the measure for the President; **(See next issue.)**

Extend Energy Programs: H. Res. 317, providing for the agreement of the House to the Senate amendment to the bill, H.R. 2472, to extend certain programs under the Energy Policy and Conservation Act, with an amendment; **(See next issue.)**

Delay Implementation of Entry-Exit Control System: H.R. 2920, to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to modify the requirements for implementation of an entry-exit control system (passed by a yea and nay vote of 325 yeas to 90 nays, Roll No. 627); and **(See next issue.)**

Federal Advisory Committee Act: H.R. 2977, to amend the Federal Advisory Committee Act to clarify public disclosure requirements that are applicable to the National Academy of Sciences and the National Academy of Public Administration. **(See next issue.)**

Suspension Failed—Minority Religious Groups Re German Government: The House failed to suspend the rules and agree to H. Con. Res. 22, amended, expressing the sense of the Congress with respect to the discrimination by the German Government against members of minority religious groups, particularly the continued and increasing discrimination by the German Government against performers, entertainers, and other artists from the United States associated with Scientology by a yea and nay vote of 101 yeas to 318 nays, Roll No. 625. **(See next issue.)**

Further Continuing Appropriations: Considered by unanimous consent, the House passed H.J. Res. 104, making further continuing appropriations for the fiscal year 1998. **(See next issue.)**

Adjournment Sine Die Preparation: The House agreed to H. Res. 311, the rule providing for consideration of certain resolutions in preparation for the adjournment of the first session sine die by a yea and nay vote of 257 yeas to 159 nays, Roll No. 628. Pursuant to the rule, H. Con. Res. 194, providing for a joint session of Congress to receive a message from the President and H. Res. 320, appointing a committee to notify the President concerning the proposed adjournment of the session were considered as adopted. **(See next issue.)**

Postponed Suspensions: Agreed that the Speaker be authorized to designate a time not later than November 14, 1997, for resumption of proceedings on the seven remaining motions to suspend the rules originally debated on September 29, 1997. **(See next issue.)**

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of November 12. **(See next issue.)**

Enrollment Authorization: Agreed that H.J. Res. 103, waiving the printing on parchment for the remaining appropriation bills when presented to the President, be discharged, considered, and passed. **(See next issue.)**

Meeting Hour—November 12: Agreed that when the House adjourns on the legislative day of today, it adjourn to meet at noon on Wednesday, November 12, 1997. **(See next issue.)**

Further Continuing Appropriations: Considered by unanimous consent, the House passed H.J. Res. 105, making further continuing appropriations through Friday, November 14, for the fiscal year 1998. **(See next issue.)**

Amend Rule: Agreed by unanimous consent to amend H. Res. 314, the rule waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules. **(See next issue.)**

Senate Messages: Messages received from the Senate today appear on pages H10424 (continued next issue).

Referrals: S. Con. Res. 58, expressing the concern of Congress over Russia's newly passed religion law and S. 759, to provide for an annual report to Congress concerning diplomatic immunity were referred to the Committee on International Relations. S. 508, to provide for the relief of Mai Hoa 'Jasmin' Salehi; S. 857, for the relief of Roma Salobrit; and S. 1304, for the relief of Belinda McGregor were referred to the Committee on the Judiciary. S. 1487, to establish a National Voluntary Mutual Reunion Registry was referred to the Committee on Ways and Means. **(See next issue.)**

Quorum Calls—Votes: Seven yea-and-nay votes developed during the proceedings of the House today and appear on pages H10428 (continued next issue). There were no quorum calls.

Adjournment: Met at 2:00 p.m. and adjourned at 2:02 a.m. on Monday, November 10.

Committee Meetings

AMTRAK REFORM AND AUTHORIZATION

Committee on Rules: Granted, by a vote of 8 to 3 a rule providing for the consideration of S. 738, Amtrak Reform and Accountability Act of 1997, which

shall be considered as read. The rule provides that the amendment printed in the Rules Committee report shall be considered as adopted. The rule waives all points of order against the bill as amended. The rule also provides for one hour of debate equally divided and controlled by the Chairman and ranking minority member of the Committee on Transportation and Infrastructure. Finally the rule provides one motion to commit with or without instructions. Testimony was heard from Chairman Shuster and Representatives Oberstar and Wise.

Joint Meetings

FDA REFORM

Conferees agreed to file a conference report on the differences between the Senate- and House-passed versions of S. 830, 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.

COMMITTEE MEETINGS FOR MONDAY, NOVEMBER 10, 1997

Senate

No meetings are scheduled.

House

No Committee meetings are scheduled.

Next Meeting of the SENATE

10 a.m., Monday, November 10

Senate Chamber

Program for Monday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will consider any conference reports that become available, and any cleared legislative and executive business.

Next Meeting of the HOUSE OF REPRESENTATIVES

12 noon, Wednesday, November 12

House Chamber

Program for Wednesday: To Be Announced.

NOTE: *Suspensions May Be Brought up with an Hour's Notice.*

Appropriations Conference Reports May Be Brought up at Any Time.

Extensions of Remarks, as inserted in this issue

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