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House of Representatives

The House met at 10 a.m.

The Reverend Michael A. Nagy, Faith Evangelical Congregational Church, York, Pennsylvania, offered the following prayer:

Our Father and our God, it is with great joy, thanksgiving, and humility that we enter into Your presence this day as we lift up the Members of the 106th Congress to You. We ask that, as they govern, they will do so with divine grace, mercy, wisdom, and direction.

As You are ruler of all nations, we pray that You would rule in us today. As a nation, may we recover our awe of You. Refresh us with Your unfailing love. Revive our hearts. Renew our vision. Revitalize our sense of national purpose. Rekindle within us patriotism's flame. Restore in us our Founding Fathers' convictions of justice and equality.

This we pray through Him who reigns with You, both now and evermore. Amen.

THE JOURNAL

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

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

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

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

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

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

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. DOGGETT) come forward and lead the House in the Pledge of Allegiance.

Mr. DOGGETT 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.

INTRODUCTION FOR PASTOR MICHAEL A. NAGY

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

Mr. GOODLING. Mr. Speaker, it gives me great pleasure to welcome Pastor Michael Nagy to the U.S. House of Representatives and thank him for his opening prayer this morning.

Pastor Nagy is the current full-time pastor of Faith Evangelical Congregational Church in York County, Pennsylvania, a position that he has enjoyed for the past 2½ years.

Pastor Nagy has been ministering to his congregation in a variety of ways. Aside from his duties as pastor, he teaches adult Sunday school, provides home care and counseling needs, and tends to the needs of his assembly. The pastor is also continuing his education at the Evangelical School of Theology in Myerstown, Pennsylvania, where he hopes to earn his Masters of Divinity degree.

He is joined today by his wife Tracy and their daughters Leona and Sarah.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 15 one-minute speeches on each side.

30–YEAR RAID ON SOCIAL SECURITY TRUST FUND HAS STOPPED WITH THIS LEADERSHIP

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

Mr. ARMEY. Mr. Speaker, because Republicans have held the line on spending, $115 billion from the Social Security taxes are saved for the trust fund and to pay down debt. Republicans have stopped the 30-year raid on Social Security, and we are determined to make sure that this program is never raided again.

That is why we have announced that we will not schedule any legislation that spends one penny of Social Security Trust Fund. This leadership is committed to ending the 30-year raid on the senior's Social Security plan and to paying down the debt.

It is really a simple proposition. The Democrats have a risky scheme to finance big government spending on the backs of senior retirement plans. Republicans want to lock away every penny of Social Security for seniors.

Mr. Speaker, the President wants to spend the Social Security surplus. That is right. President Clinton wants to spend the Social Security surplus.

The President's budget would spend $57 billion of Social Security in fiscal year 2000 alone. The President's $57 billion Social Security spending spree is equal to the yearly Social Security taxes paid by one out of every eight American workers.

It gets worse, Mr. Speaker. The President's $50 billion Social Security spending spree is equal to the yearly Social Security benefits for one out of every seven senior citizens.

Mr. Speaker, let me repeat. Not one dime of our Social Security taxes will be spent for something other than Social Security. Beginning in fiscal year 2000, we are stopping this 30-year raid.

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REPUBLICANS' MANAGED CARE REFORM BILL WILL SPEND SOCIAL SECURITY TRUST FUND MONEY

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

Mr. GREEN of Texas. Mr. Speaker, I am proud to follow the gentleman from Texas (Mr. ARMEY) and obviously disagree with him because he said there is not going to be a bill scheduled that will spend Social Security trust funds.

Well, I was going to stand up here and talk about the managed care reform bill and the rule that was rigged to make sure that the access bill would pass even if the Dingell-Norwood bill does. Let me tell my colleagues what has been scheduled today, and it is exactly opposite from what the majority leader said. $48 billion of Social Security money will be spent if that access bill passes because there is no way they are paying for that.

So I do not know who to believe, either the numbers I see or what I hear from the 1-minute from the majority leader. Hopefully, the American people will look at what is happening. They are promising one thing from the floor of this House; but in the Committee on Appropriations and everywhere else, they are spending over $18 billion in Social Security funds, and today they have allowed an amendment on this floor that will spend $48 billion that will not be used for Social Security benefits.

KEEP AMERICA STRONG; SUPPORT THE MINING INDUSTRY

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

Mr. GIBBONS. Mr. Speaker, just last week the National Research Council released its much-anticipated report about hardrock mining on Federal lands.

Well, I say to my colleagues take a deep breath and grab their bifocals because this report actually shows a glimmer of common sense. It reaffirms what the mining industry in the State of Nevada has known all along; that is, that we do not need more regulation and restrictions. In fact, this report clearly states that existing Federal and State laws regulating mining are effective in protecting our environment.

Unfortunately, there are those in Congress who would like to destroy the mining industry in America by stopping its vital productivity with undue and burdensome Federal regulations.

Mr. Speaker, let me tell my colleagues, they probably do not think about it, but mining touches them, their constituents, and their families every day. Without mining, there would be no computers, no telephones, no automobiles, no modern medicine or technologies that provide all of us a longer and better quality of life.

Unnecessary Federal regulations could put an end to the mining industry and put an end to improving our quality of life. Keep America strong. Keep it moving. Support the mining industry.

PRAYING NOW BANNED FOR FOOTBALL PLAYERS

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

Mr. TRAFICANT. Mr. Speaker, a football team in Texas was overheard saying a prayer. My colleagues guessed it, now there is a lawsuit to ban football players in high school from praying. Unbelievable.

Mr. Speaker, even though the First Amendment states Congress shall make no law prohibiting the free exercise of religion, children cannot pray in school. School functions cannot mention God. Now football teams cannot pray.

What is next? Are they going to ban the Hail Mary pass in football? Beam me up. A Nation that outlaws God, so help me God, is inviting the Devil.

I yield back the trampled rights of the majority of the American people.

SENIOR CITIZENS SCORE VICTORY IN CONGRESS

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

Mr. HILL of Montana. Mr. Speaker, last night, America's senior citizens scored a big victory in the Congress. They may not even be aware of it this morning, but in the first time in decades, this Congress voted to make Social Security more important than foreign aid. Let me repeat. Congress said yesterday that Social Security is more important than foreign aid.

Now, the President has threatened to veto the foreign operations bill because he wants $2 billion of Social Security money to hand out around the world. Yesterday, Mr. Speaker, the Congress said no.

Mr. Speaker, for 40 years, the Democrats controlled this House, and not once did they set aside even a single dollar to save Social Security. If they had their way, they would have continued yesterday to raid the Social Security account. Yesterday it was for foreign aid. But yesterday they lost, and American senior citizens won. Today, Mr. Speaker, Social Security in this Congress is more important than foreign aid.

NORWOOD-DINGELL BILL PUTS THE CARE BACK INTO HEALTH CARE

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

Mrs. CHRISTENSEN. Mr. Speaker, the Republican leadership and managed care companies did not tell the American public the truth about why they oppose the Norwood-Dingell bill. They said that they were concerned that medical necessity provisions went too far. But how can one argue against physicians and their patients using their trained or best judgment?

They said that they were concerned that employers would be liable. But H.R. 2723 makes sure that businesses are protected.

So it came down to what their opposition is really about, the accountability of managed care companies for the medical decisions that they make. Tell me, why should every other business or company be liable for negligence or damages for the products they make, and this one kind of business not be held accountable for the life and death decisions that they make, not the doctors.

The only bill that is real managed care reform that puts the business of medicine back in the proper perspective and puts the care back into health care is the Norwood-Dingell bill. Let us pass that bill today. The American people need and want us to do that.

DAVIS-BACON ACT INFLATES COSTS FOR HURRICANE VICTIMS

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

Mr. BALLENGER. Mr. Speaker, Hurricanes Floyd and Dennis have dealt a devastating blow to the residents along the Eastern Seaboard from Florida to North Carolina to New York. The flood waters have resulted in billions of dollars in damage and left thousands without homes.

Last week, a number of my colleagues and I sent a letter to the President of the United States asking him to relax the Davis-Bacon prevailing-wage requirements in order to facilitate repairs in the States hardest hit by the hurricanes.

The Davis-Bacon Act requires contractors who work on Federal projects to use Federal dollars to pay certain prevailing wages. Economic studies believe that Davis-Bacon inflates the cost of construction projects up to an estimated 38 percent.

Victims of the hurricanes should have the opportunity to use Federal disaster relief in local competitive markets to rebuild their homes and communities. In fact, under the Davis-Bacon Act, a man or woman who receives $2,500 of Federal disaster funding cannot use that relief to rebuild their own house themselves, but must pay the inflated prevailing wage to another contractor because of the use of Federal dollars.

SMALLER SCHOOLS, STRONGER COMMUNITIES ACT WILL STRENGTHEN SENSE OF COMMUNITY IN SCHOOLS

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

Mr. HILL of Indiana. Mr. Speaker, the recent violence we have seen in our schools has made all of us take a serious look at our children, our schools, and ourselves. Too many of our children wake up every day and go to schools that make them feel disconnected and detached from their teachers, their parents, and their communities.

I am introducing a bill tomorrow called the Smaller Schools, Stronger Communities Act which I hope will make our schools smaller and strengthen the sense of community and safety that many of our schools today are lacking.

A principal of a successful small high school recently wrote that small schools ''offer what metal detectors and guards cannot, the safety and security of being where you are well-known by people who care for you.''

I hope this bill will encourage local school districts to find new ways to help their students feel connected to their schools, their communities, and their parents.

DAY 132 OF SOCIAL SECURITY LOCKBOX BEING HELD HOSTAGE

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

Mr. VITTER. Mr. Speaker, this is day 132 of the Social Security lockbox held hostage in the Senate. Today's seniors and the seniors of tomorrow demand that we act as responsible stewards of the hard-earned money that they pay into Social Security.

Now there are two things we need to do to protect Social Security: first, we must act responsibly this year and pass spending bills without dipping into Social Security, and we are; second, we must work to see that institutional protections like the lockbox become law.

This House passed the lockbox bill by a vote of 416 to 12 on May 26. For 132 days, the other body has held this bill hostage.

□ 1015

I hope President Clinton and all who say they are concerned about protecting Social Security call on the Senate for action on the Social Security lockbox bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONILLA). The Chair will remind Members to avoid urging action of the other body, the Senate, in their remarks.

AMERICA WANTS HMO REFORM THAT PUTS PATIENTS AHEAD OF PROFITS

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

Ms. DELAURO. Mr. Speaker, the American public has consistently called for HMO reforms that put patients ahead of profits. Just as we are about to debate the bipartisan Patients' Bill of Rights, the Republican leadership and the insurance industry have set traps to weaken and kill sensible patient protections.

Earlier this week, the Republican leadership held a fund-raiser with insurance industry lobbyists, the most rabid opponents of HMO reform, and filled their pockets with campaign donations. Their motives are transparent: set traps for HMO reform and collect checks from the insurance industry. The Republican leadership is displaying upside-down values that put campaign favors ahead of HMO reform.

Mr. Speaker, I say to the Republican leadership that in this body rank-and-file Democrats and Republicans have come together around a bipartisan piece of legislation that is a good piece of health care reform legislation. The Republican leadership in this House is attempting to thwart the will of the Democrats and the Republicans here, and thwart the will of the American people that wants access to emergency rooms and specialty care, that wants to have prescription drugs, and that allows them to sue an HMO if they have proceeded irresponsibly.

AMERICA NEEDS PATIENTS' BILL OF RIGHTS, NOT LAWYERS' RIGHT TO BILL

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

Mr. HAYWORTH. Mr. Speaker, I really appreciate the outlook of my colleague from Connecticut, and it is unique in her interpretation of what transpires.

For example, the silence is deafening from my friends on the left when it comes to Communist Chinese contributions to their political party and the President of the United States. Very interesting that they do not have a word to say about that. Oh, they do talk about campaign finance reform. But that is akin to Bonnie and Clyde, at the height of their crime spree, calling for a press conference for tougher penalties against bank robbery.

Make no mistake, my friends on the left love trial lawyers, and what they want instead of a true patients' bill of rights is a lawyers' right to bill. The Wall Street Journal opined yesterday that the left has been held hostage by the trial lawyers' lobby.

I know they will get up and be very clever today, but remember the facts: We need a true patients' bill of rights, not a lawyers' right to bill.

APPROVE BIPARTISAN PATIENTS' BILL OF RIGHTS

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

Mr. DOGGETT. Mr. Speaker, of course the gentleman from Arizona (Mr. HAYWORTH) is right. I think all America recognizes it is just a matter of coincidence that the Republican Party here in the House sucked out every dollar it could from the managed care and insurance companies on the eve of the consideration of a meaningful patients' bill of rights.

What I prefer to focus on is not their failure but our success, a success in the Lone Star State. This is experience that this Congress should follow to protect health care consumers across this country. We began in Texas with bipartisan participation in crafting meaningful guarantees for every person in managed health care.

Texas recognized that we have to reject the same sham insurance company talk that is being advanced here today, and the same misinformation that clutters the television airwaves. The result has been what Governor Bush's own insurance commissioner calls one of the most effective consumer laws in the country.

Unfortunately, a Federal law is interfering with the ability of Texas and other States to assure patients full guarantees. Let us approve the bipartisan patients' bill of rights, empower the States, and empower the patients.

REPUBLICANS ARE FIGHTING TO PROTECT SOCIAL SECURITY SURPLUS

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

Mr. TIAHRT. Mr. Speaker, the previous gentleman from Texas spoke very well, as a trial lawyer would. But I want to talk about the throes of a great struggle we are in to restore the integrity of the Social Security Trust Fund.

If the Republicans in the House are successful, not one penny of the Social Security surplus will be spent on wasteful Washington spending. Last night, the Republicans passed a foreign operations bill that cuts the amount of foreign aid Americans send overseas. Why is that good? It reflects disciplined spending, it cuts growth in the Federal Government, and it protects the Social Security surplus.

The President now has threatened to veto the bill. Why? Because he wants to spend $2 billion more on foreign aid. Now, that alone troubles most Americans. But what brings us to despair is that this $2 billion more the President wants to spend will come right out of

the Social Security Trust Fund. The President intends to spend $2 billion more of the Social Security Trust Fund not here in America but overseas.

Mr. Speaker, we are fighting to protect the Social Security surplus not only for this year but for the next year, the year 2000.

MAKING EDUCATION MORE AFFORDABLE

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

Ms. ROS-LEHTINEN. Mr. Speaker, it has been said that education is not the filling of a pail but the lighting of a fire. But, Mr. Speaker, how can our children keep the flames of education alive when for many college education, so necessary in today's job market, seems unaffordable and out of reach.

As a former educator and school administrator, I know of the difficulties that working families encounter with the skyrocketing costs of a college education. While in the Florida legislature, I made it a priority to create the Florida Prepaid College Tuition Plan, helping thousands of Florida's families. In Congress, I have continued to support legislation aimed at providing tax deductions for families of college students, particularly lower-income families.

As legislators, it is our duty to ensure that a college education is made affordable. And tax deductions and incentives are a surefire way of relieving working families who aspire to send their children to college. Our future can only be as good as the education of our children.

Our congressional leadership is making students a priority, and we will work to pass legislation that will enable them to attend college, to reach their goals, and supply them with the necessary tools to create an even better America.

HOUSE FACES HISTORIC OPPORTUNITY IN HMO REFORM

(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. Mr. Speaker, today the House of Representatives has an enormously historic opportunity, an opportunity that America has been asking for time, after time, after time. And that is just to provide equity in the health management organizations that provide insurance for a great number of hard-working American families.

All America asks for is that we respond to their desires to emphasize the patient-physician relationship; that we do not have drive-by emergency rooms; that we allow women to use their OB–GYN; and, yes, that we give them the opportunity when an HMO intercedes between a physician-patient relationship and denies coverage or care and our loved one is injured or they are made worse or they die, that they have the opportunity to seek redress of their grievance, similar to the constitutional fathers who came and organized and made this country great.

So I would say, Mr. Speaker, I am hoping that we will not interject poisonous amendments that will take away from the American people the opportunity to see a fair and just HMO plan. We should vote for the Patients' Bill of Rights. Let us do this together as one country, one Nation, and one Congress.

FOREIGN AID ACCOUNTABILITY

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

Mr. CHABOT. Mr. Speaker, Federal investigators are still sorting through the evidence in what may well be the biggest money laundering scandal in U.S. history.

The United States has provided billions of dollars in direct foreign aid to Russia since the breakup of the foreign Soviet Union. Much of the money is missing, unaccounted for. The taxpayers have also underwritten billions more in International Monetary Fund commitments. What we are apparently seeing right now is a pretty good example of what happens when we throw good money after bad. Let us face it, someone has been asleep at the switch.

This Congress is doing the right thing by reducing foreign aid spending, as we voted to do just last night, President Clinton's objections notwithstanding. But we need to do more. We need to make sure that the Clinton administration ensures that our tax dollars are not being diverted inappropriately or outright stolen. We need to ensure that somebody is looking out for the American taxpayers. We need some accountability, finally, at the White House.

CONGRESS NEEDS TO TAKE UP A SCHOOL FACILITIES BILL

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

Mr. THOMPSON of California. Mr. Speaker, modern well-equipped schools in good repair are an important part of a good learning environment, yet we are lacking badly in our efforts to keep up with school facilities needs.

In my home State, California, we need 10,791 classrooms in the next 5 years in order to keep up. That is 6 classrooms per day that we are going to need to build for the next 5 years.

Facilities are necessary to keep up with the new technology that we are putting in schools and to meet the needs of the growing student population, enrollment that grew to a record high last year of 53.2 million students. And it is projected that next year it will grow by another 440,000 students.

Mr. Speaker, it is paramount that we have a school facility bill on this floor to address these needs.

FEDERAL RED TAPE IS STRANGLING AMERICA'S SCHOOLS

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

Mr. PITTS. Mr. Speaker, Federal red tape is strangling America's public schools. As long as the bureaucrats maintain their death grip on school districts across America, schools will struggle with their effort to get better.

So when we talk about how much money we are spending on education, let us also talk about how we are spending that money. Let us stop focusing on process and start focusing on what really matters: Results.

That is what Republican education reform is all about. It is about fewer layers of bureaucracy and more dollars to the classroom. It is about less red tape and more student achievement. It is about allowing parents to take their kids out of bad schools and put them into good ones. It is about putting more decisions into the hands of teachers and parents and fewer decisions in the hands of the bureaucrats. It is about giving America's children the chance for a brighter future.

IN MEMORY OF ARMY SERGEANT JASON PRINGLE

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

Mr. WELDON of Florida. Mr. Speaker, on last Friday, October 1, my hometown suffered a grave loss. A paratrooper, Army Sergeant Jason Pringle, died while serving this country in Kosovo as part of the Army's elite Company A, 1–508th Airborne Battalion Combat Team. Jason, a 24-year-old army medic had served this Nation since his graduation from Palm Bay High School in 1993.

I never had the opportunity to meet Jason, but I wish I had. He was a fine young man with a bright future. I, too, served in the Army in its medical corps, and I met many young people like Jason during my service, and it was always a privilege.

It is tragic that this has happened; that the state of the world is such that we have to have our brave men and women all over the globe. It is tragic that a father has lost his son, a mother has lost her child.

To Jason: Thank you for giving the greatest gift, your life, for our continued freedom and the freedom of others.

PRESIDENT CLINTON AND JAMES RIADY IN NEW ZEALAND

(Mr. TANCREDO asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. TANCREDO. Mr. Speaker, John Huang recently named James Riady as his superior in the campaign finance fiasco who funneled over $4 million, along with the influence of the People's Republic of China, into the pockets of the Clinton-Gore campaign and into the White House.

This man, Mr. Riady, is wanted for questioning by both the House and the Senate, as well as the Department of Justice. On September 24, 1999, the Wall Street Journal reported that ''James Riady, the Indonesian businessman central to Donorgate, used an economic summit in New Zealand last week to chat with President Clinton.''

□ 1030

The White House will not talk about it, but the Indonesians say Riady did not discuss anything sensitive with the President.

Mr. Speaker, Mr. Clinton is the head law enforcement officer of the United States. He and Janet Reno have once again made a mockery of the Congress and the American people.

PATIENTS' BILL OF RIGHTS

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

Mr. PALLONE. Mr. Speaker, I would urge my colleagues today and tomorrow to vote only for the Norwood-Dingell managed care reform, the Patients' Bill of Rights.

Every effort is being made with the rule that we will adopt today in the House to try to mess up the Patients' Bill of Rights and make sure that it is ultimately defeated and does not go on to the Senate.

The Patients' Bill of Rights, the Norwood-Dingell bill, would change the way medical care is provided by guaranteeing that the doctor and the patients make the decisions about what kind of care they get rather than the insurance company and it would provide for enforcement through an external independent review process if their medical care has been denied and ultimately to the federal courts.

The phony access bill that the Republican leadership will put up on the floor today does nothing for the uninsured. It does not help the uninsured at all. All it does is to make it more difficult to pass the Norwood-Dingell Patients' Bill of Rights.

The substitutes that are going to be proposed tomorrow as alternatives to the Norwood-Dingell bill, all they do is basically water down their ability to get adequate patient protections and to enforce what kind of care they should get either in a court of law or through external review.

Vote for Norwood-Dingell. Vote against all the substitutes tomorrow.

MANAGED CARE REFORM IS LONG OVERDUE

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

Mr. SHAYS. Mr. Speaker, I am for malpractice reform. I am for product liability reform. I think we have too many lawsuits. But I do not believe HMOs should cause the injury or death of someone and escape liability, and neither do any or most of my constituents.

I have been having community meetings the last few weeks. I asked Republicans. I asked Democrats. I asked the young. I asked the old. I asked conservatives. I asked moderates. I asked liberals. And almost everyone says HMOs should not escape liability.

I believe we need a patients' health care bill of rights, and I am going to support one. I think it is long overdue that we are addressing this issue.

REJECTION OF PRESIDENTIAL NOMINEE FOR SUPREME COURT JUSTICE

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

Mr. BECERRA. Mr. Speaker, today we see the injustice that the majority party is doing with regard to America's right to be able to go to a hospital and get decent health care.

But yesterday was a further injustice, this time in the other body, the Senate, where the Senate, in the first time for some 20 years, decided to reject the nomination of the President of the United States of a court nomination.

The gentleman in this case was a gentleman named Ronny White, a sitting Supreme Court justice in the State of Missouri. He also happened to be African American, the first African American in that State to sit on the Supreme Court in that State.

He was rejected despite the fact that in committee in the Senate he passed with Republican support. Yet, when his vote came to the Senate floor, the Senators rejected him on the Republican side, including those who had voted for him in committee.

Outrageous because this is the first time in some 20 years that we have seen this happen, but outrageous because it is the first time in my memory that someone has been rejected for reasons other than his qualifications.

We have seen this happen now yesterday. I am afraid it may happen again when we have other judges of minority background who may face the same consequences by this Republican Senate. It is outrageous and we need to stop that. Hopefully the outrage will stop by the year 2000.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONILLA). The Speaker would remind Members not to characterize actions taken by the other body or to encourage that they take specific action.

PRESIDENT IS GOING TO VETO FOREIGN AID BILL

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

Mr. KINGSTON. Mr. Speaker, I am still confused. The President said in January, let us put Social Security first. So, taking him for his word, the Republican conference says, we agree. We will reserve House Resolution 1, the first bill of the legislative session, for consideration for the President's Social Security reform package.

Well, that was in January. Here we are in October. No bill, no legislation, nothing from the President on Social Security protection.

Here is what we do have. He said he wanted to protect 62 percent of the Social Security Trust Fund. Republicans want to protect 100 percent. He said he is against the lockbox. The lockbox works the same way as a security deposit box in the bank works. They put the money in there and then nothing can get out. But the President is against that.

Now we find out he is going to veto the foreign aid bill because he wants to spend more money but the only surplus that is left is Social Security.

So I am really confused now. The President is going to veto foreign aid so he can spend at its current level, so he can spend Social Security dollars in foreign countries. It does not make sense, Mr. Speaker.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 340, nays 68, answered ''present'' 1, not voting 24, as follows:

[Roll No. 481]

YEAS—340

Ackerman	Baldacci	Bartlett
Allen	Baldwin	Barton
Andrews	Ballenger	Bass
Archer	Barcia	Bateman
Armey	Barr	Bentsen
Bachus	Barrett (NE)	Bereuter
Baker	Barrett (WI)	Berkley

Berman
Berry
Biggert
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Coyne
Cramer
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
DeLay
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Frank (MA)
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Hall (OH)
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Hastings (WA)
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Lewis (CA)
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Price (NC)
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Simpson
Sisisky
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Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
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Stearns
Stenholm
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Weiner
Weldon (FL)
Weldon (PA)
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ANSWERED ''PRESENT''—1

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NOT VOTING—24

Abercrombie
Boucher
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Chenoweth-Hage
Conyers
Cox
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McCrery
McKinney
Meeks (NY)
Norwood
Rogan
Salmon
Scarborough
Waxman
Wicker
Young (AK)

☐ 1057

So the Journal was approved.

The result of the vote was announced as above recorded.

☐ 1100

PROVIDING FOR CONSIDERATION OF H.R. 2990, QUALITY CARE FOR THE UNINSURED ACT OF 1999, AND H.R. 2723, BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 323 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 323

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2990) to amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) two hours of debate equally divided among and controlled by the chairmen and ranking minority members of the Committee on Commerce, the Committee on Education and the Workforce, and the Committee on Ways and Means; and (2) one motion to recommit.

SEC. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed three hours equally divided among and controlled by the chairmen and ranking minority members of the Committee on Commerce, the Committee on Education and the Workforce, and the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. The amendments printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as read. No further amendment to the bill shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments printed in part B of the report are waived except that the adoption of an amendment in the nature of a substitute shall constitute the conclusion of consideration of the bill for amendment. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any further amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 3. (a) In the engrossment of H.R. 2990, the Clerk shall—

(1) await the disposition of H.R. 2723;

(2) add the text of H.R. 2723, as passed by the House, as new matter at the end of H.R. 2990;

(3) conform the title of H.R. 2990 to reflect the addition of the text of H.R. 2723 to the engrossment;

(4) assign appropriate designations to provisions within the engrossment; and

(5) conform provisions for short titles within the engrossment.

(b) Upon the addition of the text of H.R. 2723 to the engrossment of H.R. 2990, H.R. 2723 shall be laid on the table.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, today the Republican majority makes good on its promise of a full and fair debate on health care reform. We have acceded to the requests of both sponsors, the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL), by separating the two major issues in the managed care debate. This rule ensures that both parts of the debate, the affordable access part and the patient protection part, receive the attention they deserve separately.

Under the rule, we will first debate the access bill, H.R. 2990, introduced by the gentleman from Missouri (Mr. TALENT) and the gentleman from Arizona (Mr. SHADEGG). Because of the tax provisions within H.R. 2990, we have offered the minority a substitute, which I understand they have declined to offer, as well as the traditional motion to recommit.

The rule provides for an ample 2 hours of general debate on this access bill, to be equally divided between the three committees of jurisdiction.

After consideration of the access bill, H.R. 2990, we will proceed to separately debate H.R. 2723, the so-called Norwood-Dingell bill. We provide for 3 hours of general debate, again to be equally divided among the three committees, the Committee on Commerce, the Committee on Education and Work Force, and the Committee on Ways and Means.

Because of the comprehensive nature of this legislation, the rule makes in order only full substitutes to Norwood-Dingell, the underlying bill. There are three such substitutes. Each of the three substitutes will receive an hour of debate time. We have made in order every substitute offered to the Committee on Rules, and a great many of the more than 50 or so perfecting amendments we heard in the Committee on Rules are addressed in one way or another in all of these substitutes. We believe this will ensure timely and full consideration of all points of view on this very important issue.

After considering these substitutes and voting on the underlying bill, the rule provides that the two bills, the access bill and the patient's rights bill, will be enrolled and sent to the Senate together. Since this was precisely the process that the base bill sponsors had requested, we were surprised when the minority objected last night at the last minute to this fair process and even threatened to bring down the rule over it. It should be clear to any objective Member that we have kept our word and prevented so-called ''poison pill'' amendments from even being offered.

I am concerned that by last minute moving of the goalposts and by their statements in opposition to this approach, that the minority now has a desire to have a partisan political debate, rather than to solve a real and growing problem that Americans are asking us to deal with.

Access and affordability are as important as improving patient protection, and we fairly provide for both under this rule, as we have pledged we would do. At the Committee on Rules on Tuesday I was struck by something the gentleman from Michigan (Mr. DINGELL) said on this topic, and I quote him: ''A right without enforcement is no right at all.'' While he was referring to the patient protection side of this debate, I believe those words are even more appropriate in the context of the debate over the uninsured.

This week the Census Bureau reported that the number of uninsured grew by 1 million last year. It is now one in six Americans that do not have health care insurance. This should be devastating news to all Americans, particularly those in the small business community. None of the important patient protections we will debate later today or tomorrow mean anything to those 44 million Americans living without insurance. In this case, to paraphrase my friend from Michigan, a right without insurance is no right at all.

That is why I am pleased that our first order of business today is a well-crafted bill to increase the number of insured, not through more bureaucracy, not ''big brother'' mandates, but through market reform and long overdue tax equity. For the mom and pop and other small business employees in my district in Florida, that means that they can afford quality health care insurance, they can stop using the emergency room as their only source of health care, and they can finally enjoy the same health care advantages that the employees of the IBMs of the world currently have. I will speak in greater length about the patient protection piece during the amendment process. I intend to offer a substitute, along with the gentleman from Oklahoma (Mr. COBURN), the gentleman from Arizona (Mr. SHADEGG), the gentleman from California (Mr. THOMAS), and the gentleman from Pennsylvania (Mr. GREENWOOD) to the Norwood-Dingell bill.

Put simply, our approach seeks to find the responsible middle ground between limited liability for health plans and a trial lawyer bonanza. Our message is simple: If you are harmed, you deserve to be made whole. But we should encourage patients to get the care they need up front from quality medical providers, with a lawsuit as a last resort, not the first choice. I am encouraged by the amount of support we have received, and I look forward to a vigorous debate when the time comes.

Mr. Speaker, I want to finish by reminding all Members what this rule does and does not do. This rule does provide for separate votes on access and patient protection, as requested by the sponsors. This rule does not make in order any poison pill amendments intended to sink the underlying bill.

This is a fair process, and I encourage my friends on the other side of the aisle to keep their word, vote for the rule, and help us improve the quality and affordability of health care for all working Americans.

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

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

Mr. Speaker, this rule is a classic case of caveat emptor, or perhaps it is a pig in a poke. Whatever it is, this rule is a not-too-cleverly-disguised attempt by the Republican leadership to derail meaningful reforms in the managed care industry, reforms that will benefit millions of Americans who are counting on us to help them.

Mr. Speaker, the gentleman from Florida (Mr. GOSS) has told the House that this is a fair rule, a rule which will allow the House to debate a full range of health care issues.

Mr. Speaker, I must respectfully disagree with my friend. While this rule may well allow the House to debate both managed care and a means to expand health care to some 44 million Americans who today have none, this rule is purposefully structured to keep either of those goals from being reached.

It is therefore my intention to oppose the rule. I would hope that the House will defeat this rule so that the Committee on Rules can adopt a new rule to permit the House to pass a real managed care reform package that stands a real chance of becoming law.

Mr. Speaker, clever packaging is often used to disguise the fact that consumers get much less than they pay for, and this rule is just as deceptive.

☐ 1115

Thus, I must repeat that this rule is a case of caveat emptor. In this case, Members may think they are getting two for the price of one, but I would submit, Mr. Speaker, that this rule is designed to cheat those of us who are looking for real value.

Mr. Speaker, the Republican majority on the Committee on Rules has recommended to the House a very peculiar procedure which was never supported by the minority. This very peculiar procedure ties together two vastly different topics under the guise of a wide-ranging reform of health care in this country.

Members have to follow the bouncing ball of what they have done. After passage of both bills, presuming both pass, the access bill and HMO reform, the rule provides that the two bills will be combined in the engrossment, thus making the two bills one, without a vote to do that. Let me repeat, after these two separate bills have been passed on separate days, then the Republicans, by operation of this rule, would tie them all together and send

them to conference with the Senate, without actually voting on that proposition.

They know, they know that by doing this, this will jeopardize any piece of legislation from ever emerging from a conference with the Senate. They do so in a very cynical way.

Mr. Speaker, over and above this question about tying the two bills together without a vote to do that, the rule does not allow the House to consider an amendment which would pay for the costs associated with managed care reform. The authors of the Patients' Bill of Rights, the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL) have proposed an amendment to their bill which would offset the cost of higher employer deductions for worker health insurance.

Mr. Speaker, this should be a very simple proposition. Republicans have for days and days on the floor of the House been crying great crocodile tears about not wanting to invade the social security surplus. What happens? Democrats and Republicans who support this bill come to the Committee on Rules and say, make in order an amendment so we do not have to invade the social security surplus, and the Republicans say no. No, we cannot do that. We do not want to invade the social security surplus, and we say that every day four or five times here on the floor, but if you actually give us the chance to vote on that subject, we do not want to vote on it, and we will prevent the House from voting on that. That is why this is a flawed rule, Mr. Speaker.

Mr. Speaker, the reasoning in all of this is somewhat tortured. I do not want to belabor the House. I would only point out that last night on the subject of tying the two bills together, I asked the chairman of the committee, the gentleman from California (Mr. DREIER), I said, why are we doing this? Why are we combining these two bills at the end without a vote? Is there some rule of the House that requires us to do that? The chairman said, no, there is not a rule of the House, we just want to do it.

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

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

Mr. DREIER. I thank my friend for yielding to me.

Mr. Speaker, the gentleman is correct. As the gentleman knows, that is the prerogative of the majority, to set forth these guidelines. But it is very clear that if we are going to address the question that my friend has accurately raised, the fact that we have gone from 1992, when the President was elected and 38 million Americans were uninsured, to the report we just received this week, that 44.3 million Americans are uninsured, we believe very strongly that unless we provide those things that are in the access bill, that we will not be able to address the concerns of those who will become even more uninsured if we simply have the kind of legislation that the gentleman supports. That is the reason we want to tie these bills together.

Mr. FROST. Reclaiming my time, Mr. Speaker, I thank the chairman for his comments, because the question I raised last night was, is there some reason, some legal reason here on the House floor that we have to do this, in the rules of the House? He said no, it is because they want to.

I would suggest that wanting to may well doom final passage out of a conference committee of either one of these provisions, which may well have merits on their own as separate pieces of legislation, but when combined under one package, no, particularly because the access bill is also not paid for. The Republicans have done nothing to provide the money to pay for the access bill. The estimates are that that bill could wind up costing $40 billion or $50 billion. So we are not paying for anything under the rule that is presented here today. All we are doing is voting on some very nice pieces of legislation.

Democrats are asking that the Patients' Bill of Rights that we have been advocating for years now, and it is final reaching the floor, that we be given the opportunity to offer an amendment which would pay for this bill so that the Republicans could honor their word and honor their pleas of not invading the social security trust fund.

Mr. Speaker, we have a lot of Members who wish to speak at this point. Members I know feel very strongly about passage of a strong Patients' Bill of Rights. We are to the point hopefully where we can do that, but we should do it in an honest way. We should be honest with the American public. I would urge defeat of this rule so we may have an honest procedure here on the floor of the House of Representatives.

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

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

Surely the gentleman from Texas, Mr. Speaker, is not implying that we are doing anything dishonest on this side of the aisle. We have the press gallery watching. We have the whole world watching. There is nothing going on here except a clear, transparent debate on what I believe is a very good rule, which provides for full and fair debate, which is what we have promised.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE), a distinguished member of the Committee on Rules.

Ms. PRYCE of Ohio. Mr. Speaker, I thank my good friend, the gentleman from Florida, for yielding time to me.

Mr. Speaker, I rise in support of this very fair rule. I would like to take this opportunity to congratulate the gentleman from Florida (Mr. GOSS) on all his hard work to bring people together to find some middle ground on this emotionally charged issue. It was certainly no small feat, and his success will give the House the opportunity to vote on consensus legislation that offers all the patient protections that we agree on without the excessive litigation and Federal regulation that the Norwood-Dingell bill promises.

I hope all my colleagues on both sides of the aisle will give the Goss substitute their very serious consideration.

Mr. Speaker, I have to say that I find it very curious that my Democratic colleagues are opposed to this rule, which I believe is eminently fair. I think all fair-minded people will agree with me when I explain why.

The Democrat leadership and some of our Republican colleagues asked the Republican leadership to bring managed care reform legislation to the House floor for debate. Today, with the passage of this rule, we will be able to. Mind you, we are not bringing just any old managed care bill to the floor. We are taking up the bipartisan bill with so much Democrat support, the Norwood-Dingell bill. This is the base bill under this rule.

Then my Democrat colleagues ask us not to allow any poison pill amendments. We complied by making in order only full substitutes under this rule. But that was not enough. Then they asked us not to add any Republican amendments to the Norwood-Dingell bill that would provide greater affordability and access. We did not.

Now my Democratic friends are upset that we did not save them from themselves, because apparently they just realized that their bill will increase premiums. I am glad that the Democrats have come to terms with reality.

One would think that they would be pleased that this rule allows us to debate another bill that addresses affordability and access, but apparently they are still not satisfied. Now they use the politically charged rhetoric that the Norwood-Dingell bill will spend social security. It is a bit of a stretch, but I guess, in a political pinch, it will do.

So now, at the last minute, the Republican leadership is supposed to fix their policy flaws by adding a last-minute $7 billion tax increase to the Norwood-Dingell bill? I realize we have been accommodating, but that is just a little bit too much for us to swallow. Frankly, their protests are beginning to ring a bill hollow.

If my colleagues are truly concerned about health care policy, I suggest they support this fair rule. This rule will allow the House to debate various proposals to provide patient protections, as well as a bill that will help uninsured Americans and those that will eventually find themselves without insurance when the premium increases in the Norwood-Dingell bill price them out of the market.

Mr. Speaker, this process is eminently fair. It gives all viewpoints a chance to be heard on the important

health care issues facing our Nation. I urge my colleagues to vote for the previous question and the rule.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, by asking us to pass a rigged rule to finally allow a vote on managed care reform, the majority has once again demonstrated that they are out of touch with the American people, and that they are even out of touch with Members of their own Republican conference.

Over 20 Republicans have signed on as cosponsors of the Bipartisan Consensus Managed Care Improvement Act because they recognize that physicians and their patients, not HMO bureaucrats, should be the ones making the decisions on what kind of care we should receive.

The rule before us is a bad rule that is designed to kill the Norwood-Dingell bill and prevent any chance of us having real, meaningful health managed care reform this year. We must defeat this rule so supporters of managed care reform on both sides of the aisle can have the opportunity to have a clean up or down vote on real managed care reform, the Norwood-Dingell bill.

This is not about providing access to care, as the opponents of the Norwood-Dingell bill would have us believe. This rule is about having no access to care even for the insured, and no managed care reform at all.

The American people have told us they want the Norwood-Dingell bill. Vote no on this rule.

Mr. GOSS. Mr. Speaker, I am happy to yield 2 minutes to the distinguished gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I am back on the floor of the House of Congress. I have been here night after night with my colleagues from the other side and colleagues from this side of the aisle, too, in pushing that we finally get a vote on patient protection legislation.

I went before the Committee on Rules with the gentleman from Michigan (Mr. DINGELL) and argued forcefully for the amendments that concern the Democrats on the pay-fors. I understand their concern about that. What we need, though, is we need a vote on access.

I have some concerns about some of the access provisions. I am going to speak about that. We need a vote also on patient protections. I will tell the Members what, we are going to have to run a gauntlet to get the Norwood-Dingell bill passed. The rule is tough, it is really tough, for us to win. At the end of the day, if either of those bills pass, then they go to conference.

I think this is the best we can do. I think it is time that we need to move to this debate. I understand my colleagues on the other side, their concern on this rule, but I honestly think that we can have a good debate in the next 2 days on both the access provisions and things in that access bill that can send a message to conference.

I intend to do that. I intend to work my hardest to get the bipartisan consensus managed care bill passed that will be in the best interests of the people in this country, and will help us move this process along. So I will vote for the rule, but I understand fully the concerns of Members on the other side.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, the House Republican leadership has awarded this fellow in the fedora on the cover of Forbes magazines and all the tax shelter hustlers that he represents a great victory because this rule denies the right to pay for this legislation by calling on tax dodgers. As the gentleman from Georgia (Mr. NORWOOD), our Republican colleague, told the Rules Committee in urging an end to this tax dodging, ''there is a difference between a tax increase and stopping bogus tax loopholes.'' Bogus loopholes, indeed. This is a bogus rule that blocks the shutdown of abusive of corporate tax loopholes.

Additionally, this rule represents fiscal irresponsibility at its worst. These bills are not paid for. It is wrong to dip into Social Security when the corporate tax dodgers should be paying for this legislation. While the costs of managed care reforms have been greatly exaggerated, all of us committed to patient protection believe this must be a fiscally prudent pay-as-you-go approach. The approach we sought in the Rules Committee was to pay for our reforms.

Finally, this so-called Republican access bill is really access to the U.S. Treasury. It would open access to up to $50 billion of tax loopholes to be financed right out of social security. This is wrong, and the rule should be rejected.

□ 1130

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

Mr. Speaker, I find it a little puzzling that the gentleman who just spoke and the distinguished gentleman from Texas (Mr. FROST) both signed a discharge petition that would have precluded the opportunity to discuss this, and now they seem to be very upset with what they signed.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I think it is very important the American public really gets to see how we got in the mess we find ourselves in with health care. In America today, we have a Soviet-run government-mandated health care system which has resulted in the loss of freedom of choice for millions of Americans. This rule to provide access is hopefully a step in moving back in that direction.

But I also want to make sure that the American people understand the two extremes on this debate. On one side, we have corporate America and small business who is afraid that the costs are going to go through the roof if we change anything. On the other side, we find the legal profession licking its chops to take money away from people who normally act responsibly.

We are going to hear all sorts of things during this debate. The one thing that we are going to hear claimed said many times is we are doing this for patients. We are going to find out if we are really doing this for patients, if we are really trying to restore freedom of choice, if we are really trying to restore accountability, and we are trying to do that at the same time that people do not lose their health care.

The partisanship of this body is terrible, the claims made on the basis of some premier principle when they are really a veiled partisan dig for a political purpose.

We are going to find out if one group or another really cares about people. We are going to find out on these votes if my colleagues really want to have a compromised piece of legislation that solves the problem of accountability, that restores choice and does not bankrupt the payroll of the American people who are supplying health care in this country.

We are going to get to hear all the stories that will touch our hearts that say why we should go one way. We are going to hear all the threats about why we cannot go another because health care is going to be taken away.

But in the long run, what it really comes down to is not the next election, which is what we are going to hear most about but nobody is ever going to say, what it really comes down to is will we have the courage to look and risk our seats to do what is in the best interest of patients in this country, not what is in the best interest of the Democratic party, not what is in the best interest of the Republican Party, but what is in the best interest of the people of this country.

That rings hollow to members who have been here; I understand that. But the only true measure of whether or not we have done our job well is that when we look in the eye of somebody that is out in our district and say, You have more freedom, you still have your health care, and you are still going to get it when this debate is all over.

By the way, access is in the Senate bill. So anything we would merge is already there, and the opposition knows that. So the claim rings very hollow. Without access, no matter which bill in terms of Patients' Bill of Rights is passed, without access provisions, fewer people will have insured coverage in America tomorrow than have it today.

This access bill is not perfect. AHPs are a terrible idea when we think about what it is going to do to disrupt the

private insurance market regardless of the fact that the National Federation of Independent Businesses wants it. We make no adjustment for high-risk pools in the States.

The gentleman from Arizona (Mr. SHADEGG) is actually right. One cannot do AHPs unless one is willing to put something else back there to help take care of the risk.

But, politically, the bill that comes out, although needed, is not in the best interest of patients either. So let us quit playing the game of partisan politics, and let us define this debate back down about what we are really supposed to be here for is the people who need and should get care and choose, and not take it away by something we might foolishly do either for the trial lawyers or for big business.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, George W. Bush said it yesterday, that his party is putting too much emphasis on economic wealth and too little on social problems, and their candidate is not whistling Dixie.

The gentleman from Oklahoma (Mr. COBURN), the previous speaker, said that we are going to break the payroll of this country. They are not going to break the payroll; they are going to break Social Security system. Because what the Republicans have done is the most dishonest, obscene attempt at almost fascist power to defeat a bill that they know would pass if they allowed the Members of the House to vote to pay for it.

To force Members to be fiscally irresponsible as a Republican ploy to win what they cannot win through honest debate is shameful. To suggest that access is in their bill is sheer nonsense.

Thirty-two million of the 45 million uninsured are in the 15 percent bracket or less, which means they get less than the $700 discount from a $5,000 bill, if they had $5,000 to buy insurance in the first place. Absolute nonsense and drivel.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. BERRY), a cosponsor of the bill.

Mr. BERRY. Mr. Speaker, I urge my colleagues to vote against this unfair and unreasonable rule, a rule so cynical, so calculated that there is no question of its intent, which is to kill the bipartisan Norwood-Dingell managed care bill.

When we went to the Committee on Rules this week, we presented an amendment version of our bill that included offsets to pay for it. That is right. We wanted to do the fiscally responsible thing and pay for what we proposed.

The Committee on Rules refused to allow us to pay for our bill. What is even more impossible to understand is the Committee on Rules will, if our bill is passed, stick on to it a $48 billion so-called access bill that is also not paid for.

This is a disgrace. Surely the gentleman from Texas (Mr. DELAY) and his colleagues cannot suppose that the American people will be fooled by this nonsense. Just this morning the gentleman from Texas is quoted in the Washington Post as saying, ''We are at a defining moment in the direction of this country. It is the classic battle of tax and spend versus balanced budget and fiscal restraint.''

Ironically, the gentleman from Texas indicated that his leadership was not one to tax and spend.

I refuse to vote for this rule and this $48 billion sound bite. If my colleagues care about balancing the budget, vote no on the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Speaker, it is with real sorrow that I rise to oppose the rule on H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999 of which I am a cosponsor, and proudly so, with the gentleman from Georgia (Mr. NORWOOD).

I was initially pleased that the Republican leadership would actually schedule our bill for consideration on the floor, so it is with considerable regret that I find myself in the awkward position of opposing the rule. I do so for a number of real and valuable reasons.

First, the Committee on Rules has chosen to include a requirement to link H.R. 2990, a bill dealing with Medical Savings Accounts and other discredited insurance reforms, which I oppose and which I am certain will trigger a veto, with H.R. 2723, a bill which would protect the rights of patients. All of the tax cuts in H.R. 2990 are unpaid for.

I would note for the benefit of my colleagues that the access provisions here, and this is the reason that they did not make these cuts subject to being identified or subject to being paid for, amount to about $50 billion. So we cannot blame my Republican colleagues for hiding those numbers.

While the House will vote separately on each bill, the rule has determined that these two bills must be joined into a single bill when they are sent to the Senate. No reason for that except, I suspect, politics. In effect, if the first bill prevails, the rule would send the patients' rights bill to the Senate with it attached, like a kind of a ticking time bomb, and unless it is disarmed in conference, the likelihood of enacting patient protections and having them signed by the President into law is highly diminished.

I also oppose the rule because the bill sponsors were not allowed to include a package of revenue offsets, which we tried to offer in the Committee on Rules. I would like to just observe that I thought the Committee on Rules' meeting was a good one. Regrettably, it was all on the surface and not within the real discussions.

Although the revenue offsets are relatively small, about $6 billion and less according to the Congressional Budget Office, they should be paid for so that we do not dip further into Social Security.

Similarly, none of the three substitutes for our bill are paid for. Instead, the rule waives the Budget Act for each substitute.

I have been to the floor in the past to speak of the need for patient protection legislation, but today I want to emphasize the fact that I am proud to be here with a bill that is truly bipartisan. For too long our fight on behalf of the rights of patients has been characterized as partisan. When I joined with CHARLIE NORWOOD on this bill, along with 22 Republican cosponsors, I think we put that myth to an end. We spent long hard hours reaching a compromise, but we did so because we wanted to put patients ahead of politics.

I would hope that we could defeat this rule, which is full of gimmicks and get on to helping patients. Let's feed our patients protection from their HMO, not a poison pill.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. WYNN).

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

Mr. WYNN. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I rise in opposition to this rule and express my support for the bipartisan Dingell-Norwood bill.

Someone said in trying to defend this rule, well, it is not exactly dishonest. Well, maybe it is not dishonest; but it is clearly disingenuous, it is clearly cynical, and it is clearly raw partisanship.

It is clearly an attempt to block bipartisan legislation that will provide real HMO reform for American citizens that would give them the right to sue when they are aggrieved.

Now, this rule has two flaws. First of all, we wanted to pay for the Dingell-Norwood bill. We had the offsets. They ruled the offsets out of order, forcing us or attempting to force us to dip into the Social Security Trust Fund.

Second, they attach the access bill. It has some merits. But why is it attached? It is not paid for. It has some undesirable aspects; and it is designed, once again, for one sole purpose, and that is to help kill the bipartisan Dingell-Norwood bill.

This vote today may be the most important in our legislative session. I hope we can defeat this rule and push for real HMO reform.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I am a little bit puzzled, and I rise very strongly opposed to the rule for my puzzlement. I am going to ask the gentleman from Florida (Mr. GOSS) a question in just a moment, or the chairman of the committee.

Last week, my colleagues were criticizing we Democrats for spending Social Security Trust Funds. Last week, we had threats of advertisements being run against several of us. This week we come to the floor, and we only ask for a rule allowing all of the bills to be paid for. My colleagues deny it. Why do my colleagues choose to deny the right of this body to pay for that which we will discuss today?

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

Mr. STENHOLM. I am happy to yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, we did not deny it. In fact, what we did is respond to the petition, the discharge petition which, in fact, would have precluded it.

Mr. STENHOLM. Mr. Speaker, I reclaim my time. Why would the gentleman from California (Mr. DREIER) at this time not go back to the Committee on Rules and give the minority an opportunity to pay for that?

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

Mr. STENHOLM. I am glad to yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding to me. As the gentleman from Texas understands the rules of the House very well, he understands germaneness. It is not germane to do that. The gentleman signed the discharge petition in the well, I suspect, with a lot of people. If that would have moved forward, it would not have been made in order.

Mr. STENHOLM. Mr. Speaker, I did not.

Mr. DREIER. Well, I know the gentleman from Texas (Mr. FROST) did and several other Members. It is not germane.

Mr. FROST. Mr. Speaker, I yield myself 15 seconds.

The gentleman from California (Mr. DREIER), chairman of the Committee on Rules, knows that the Committee on Rules can waive germaneness at any time and often does when it is to the convenience of the majority. We are only asking that it be waived once for the minority.

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

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

Mr. Speaker, it would probably be worth noting at this point in the discussion that we had a whole bunch of amendments. If we made room for one, we would have had to make room for a whole bunch more as well. We made, I think, a very wise decision to have a full fair debate. I am sorry that the folks who are upset about this, paying for what they want to do at the last minute did not think of it a lot sooner. We congratulate them for finally thinking about paying for it.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. SHADEGG), who has been an instrumental player in this.

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

Mr. SHADEGG. Mr. Speaker, I rise in strong support of this rule; and I want to point out, as one of the original cosponsors with the gentleman from Missouri (Mr. TALENT) of the access bill which provides access, affordability, and choice for the American people; that what we are hearing from the other side is that they do not like our provision, but they do not have one of their own.

There is a saying around this town, one cannot beat something with nothing. Yet, in the area of access, affordability, and choice, the other side tries to beat something that we Republicans are doing for the uninsured with nothing. My colleagues will not hear them today talk about their bill to help the uninsured get access to care.

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Mr. Speaker, we will not hear them talk about their bill to bring down the cost of insurance and make it more affordable. We will not hear them talk about their bill to give those who are insured choice.

I want to stop at this point and talk about the second issue we will hear a lot about today, which is pay-fors. We did not pay for our bill. We cannot afford this legislation. I want to point out that the opposite is true. We simply cannot afford to go on not paying for, that is, not giving care to the uninsured in America.

We are already paying for them. Has everyone lost sight of that in this debate? The uninsured are getting care in emergency rooms all across America. The uninsured are getting care in hospitals all across America, and there is cost shifting to pay for that.

So when we hear the argument that, oh, this is not paid for, this will bust the budget, please recognize that that is a ruse. That is not true because we are already paying for their care. Long ago, fortunately, this society decided that those who are in need should not go without care.

There are 44 million uninsured Americans in this country. The vast majority of those work for small businesses who cannot afford to offer them coverage. Our legislation, the legislation that the gentleman from Missouri (Mr. TALENT) and I wrote, gives those people access to care and it makes it more affordable. It gives them a deduction they do not now have. It allows small businesses to pool together.

Do not let nothing beat something. I urge my colleagues to support this very fair rule.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I heard my Republican colleagues talk about fairness. There is nothing fair about this rule. This is a killer rule.

Basically, what they are doing is abusing their majority position to rig the procedure here today. And I know why. Very simply, if I am a Member and I want to support the Norwood-Dingell bill, which I certainly do, I am forced under this rule basically to vote in favor of spending Social Security money. At the same time I am also forced to vote for MSAs, medical savings accounts, health marts, and all these other poison pills that basically break the insurance pool and increase the cost for the uninsured.

The Republicans say that their access bill is going to help the uninsured. Exactly the opposite; it is going to make it more difficult for people who are uninsured to buy health insurance. That is the poison pill.

They are rigging this rule. They are making it impossible for those of us who want to support managed care reform and true reform to vote for it because we would have to vote for all these awful other things that will hurt the uninsured, and make it more difficult also because of the fact that we are going to be spending Social Security money. It is unfair.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. TALENT), who will be managing the access bill.

Mr. TALENT. Mr. Speaker, I thank the gentleman for yielding me this time. Mr. Speaker, in the Baltimore Sun this morning appeared an article which begins as follows: ''She has stood in front of the mirror trying to practice her new smile because Linda Welch-Green can't afford the dentist. She has lost three front teeth. And Bell's palsy has paralyzed the right side of her face, so she struggles to pronounce words that start with ''P.'' She never used to miss annual medical checkups, but now she pretends not to notice when the dates slip by. Green, 50, hasn't had health insurance for two years. Even though she's working full time as a cashier at a downtown garage, the Baltimore woman can't afford the $200 a month to cover herself and her 13-year-old son.''

Mr. Speaker, there are 44 million Linda Welch-Greens around this country whose future depends on passing the accessibility bill that this rule is going to allow us to consider today. We cannot afford not to pass this bill.

Talking about this in terms of what it is going to cost the Federal government has an air of unreality about it. These people are out there suffering. They are paying for it and we are paying for it in the illnesses that they have. We cannot afford not to pass this bill.

I am told the 5-year cost, and it is the arcane way we figure cost out here, is $8 billion. And even the President agrees that we have well over $100 billion over 5 years to spend on tax relief without getting into the Social Security surplus. There is no Social Security surplus issue here.

The other issue regarding linkage of this with health care reform is that health care reform does not do much good if an individual does not have health insurance. That is a linkage in common sense, not a linkage as a result of this rule. So, please, do not say

that we are not doing anything for the uninsured, we are going to try to defeat the other side's attempts to do anything for the uninsured, and if the other side manages to succeed to do something for the uninsured, notwithstanding our opposition, we are going to kill the health care reform bill too.

That is not the right attitude. Let us help the Linda Welch-Greens in this country. We cannot afford not to do that. This is a good rule; it is a natural rule. Let us pass it and then pass this legislation.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I went before the Committee on Rules to try to get an answer to how the health access bill, which is just as much a tax bill as it is a health bill, how it could possibly get to the Committee on Rules without ever seeing the light of day in the tax writing committee.

I know that the Committee on Appropriations can vote on earned-income tax credits, but it has reached the point now on important legislation that the committees of jurisdiction do not even have an opportunity to review the bills. There is one thing that we have appreciated in our committee, unlike the majority on the floor, is that whether someone is a Republican or a Democrat, the gentleman from Texas (Mr. ARCHER) has made certain that those bills are paid for. At least he says that he will.

Now, by any standard this bill, this package, would cost some $43 billion over 10 years. Somebody said, well, it should not make any difference, we are paying for it anyway. Well, we can use that argument by not investing in education and transportation and research and development. There are a variety of things we can say that we are paying for it anyway. But there is no way in the world to believe that the majority is serious about health access by combining it with the Dingell-Norwood bill.

It is clear that when we have a rule like the majority has fashioned today, that for those of us who have worked so hard as Republicans and Democrats, who have tried to work together to get a decent bill, and the fact that so many Republicans have seen the light and walked away from the leadership saying they would rather have a good bill than just good will, that now the majority has done this; they have tried to think of ways just to overthrow this thing.

And what did the majority come up with? Did they give us a fair rule where we can debate the issue? No, they had to think of another bill that is unrelated and attach it and to put it in the rule. So that those of us who just want to support Dingell-Norwood would have to support a bill that has never seen our committee.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Speaker, I rise in strong opposition to the rule.

Republicans and Democrats came together behind the Norwood-Dingell bill and a clear majority of this House supports it. Virtually a unanimous vote of this House supports the idea that the cost of that bill should be paid for without raiding Social Security money. Now, common sense would tell us we would, therefore, have on the floor the Norwood-Dingell bill with offsetting provisions to make sure it is paid for without touching Social Security. That is what common sense would tell us. But that is not what we are permitted to do here today, and that is what is wrong with this rule.

This rule is a conscious attempt to subvert the will of the majority. It is the tyranny of the minority. In urging my colleagues to oppose this rule, I am not certain that we are going to succeed, and perhaps the minority will succeed in having its views prevail today; but I assure my colleagues, Mr. Speaker, the majority of the American public will prevail in the end and this bill will become law despite their best efforts.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. THOMAS), a member of the subcommittee and a very strong player in this matter.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time. I will do my best in the short time I have to cut through the fog that has been laid and walk through the crocodile tears that have been shed in terms of this particular rule.

Number one, the Congressional Budget Office has not scored any of these bills, so we do not have an official cost. For months, the Norwood-Dingell group said their bill did not cost anything. They are now complaining because, notwithstanding not knowing what it really costs as scored by the Congressional Budget Office, a tax provision that has never been looked at by the Ways and Means was not made in order.

Some of us on the Committee on Ways and Means have looked at that tax provision. One portion of that tax provision says that the government-forced wage rate, called Davis-Bacon, would be required to be imposed on every school district in the United States. That probably ought to go through committee so that we can determine if that is an appropriate policy or not. But they do not need to attach dollars to their bill because it has not been scored.

Secondly, when we take a look at their argument about the access provision, it is not married. Watch the vote. The gentleman from New Jersey (Mr. PALLONE) rings his hands over the problem of having to vote for access and then dealing with the patient provisions. Very simple. He will vote ''no'' on access, and he will vote ''yes'' on his choice in terms of patient protection. This rule allows that. The House will work its will.

And what about that access bill? Those tax provisions that the gentleman from New York has said he has not seen, I will have to remind him he voted ''no'' on all of them in committee and on the floor in terms of the comprehensive tax package.

What are some of those tax provisions on access? For the first time people who work for an employer, when the employer does not pay their health insurance, will be able to deduct the cost of that insurance. The uninsured will be covered with these access provisions. I thought that is what we were supposed to be all about.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am very sad this morning, because I am persuaded by this rule that this House will never touch insurance reform. This bill, the underlying bipartisan bill, has been doomed to fail after years of work by large numbers of Members on both sides.

Nothing should be clearer to each of us than the fact that our constituents want medical decisions made by medical practitioners and not by their insurance carriers. But the right of action against an insurance company dooms this bill.

State after State has enacted legislation that allows the right of action this bill intends, and it has created no massive rush to the courts. Texas has had four cases in several years under this legislation. Now, if an individual lives in one of those States, then that is good for them, but they are not going to get the protection in the United States if they do not.

Now, why should insurance companies who are culpable to damages be immune from redress? Doctors are not, hospitals are not, ancillary care is not. But insurance companies have to have the immunity.

Never mind about those questions, the clever construction of this rule will once again thwart the people's will.

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We have waited a long time for this day, only to see it lost in this dance of legislation. I urge my colleagues to defeat this rule so that we may try to have a second chance to give Americans what they want and what they deserve for the first time this year.

Mr. GOSS. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

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

Mr. WELLER. Mr. Speaker, I rise in support of this rule. I also rise in support and plan to vote for several of the

initiatives to make health care more affordable and to provide protections for patients.

It is interesting, my colleagues on the other side use a code word called ''pay-fors.'' What the code word ''pay-fors'' really means is tax increase. They always want to increase taxes. That is their first choice every time.

My colleagues, there are a number of facts out here that are so important. In my home State of Illinois, 15 percent of the workers and families and people of my home State lack health insurance. It is an increase over last year. And if we look at it from a national perspective, 44 million Americans do not have health insurance. That is an increase of 1 million over last year. And the question is, why? And the answer to that question is because health care coverage is not affordable and they also do not have access.

In fact, they say that for every 1 percent increase in health care costs 400,000 Americans lose their coverage. And if we look at those 44 million Americans who do not have coverage, 85 percent of them are self-employed people or workers for small businesses unable to find affordable rates of insurance.

That is why this rule is so important, because the access in choice legislation of quality care through the uninsured legislation provides answers and solutions that have been debated over the years in this House but never signed into law. We make it easier for small businesses to go together and in a cooperative fashion purchase health insurance in greater numbers, bringing their rates down through a cooperative purchasing effort, making it more affordable, and helping their workers have health care coverage.

We give something to the self-employed that corporate America already has. We allow the self-employed under this legislation to deduct 100 percent of their health insurance premium costs. We also give uninsured workers who do not have coverage provided by their employers a 100-percent deduction for their health insurance premium costs, too. That is fair.

I was pleased that the Committee on Ways and Means in the House and Senate voted to do this earlier this year. Unfortunately, the President vetoed it.

My colleagues, let us make health care more affordable and more accessible. Vote aye on the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader.

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

Mr. GEPHARDT. Mr. Speaker, I rise reluctantly to ask Members to vote against this rule. This is a very important day, perhaps the most important day in the Congress that we are involved in.

We have a chance now, in a bipartisan way, to pass a very good Patients' Bill of Rights, something that I think is desired by all of the American people. I want to commend the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Iowa (Mr. GANSKE) and many others on both sides of the aisle who have worked so hard to get to this point. They have worked together. They have worked admirably on a very tough set of issues. And what I wanted to pass this bill today.

Unfortunately the rule, in my view, is lacking in fairness, for two reasons. One, it does not allow an amendment that was desired by both Republicans and Democrats to pay for the patients. Unfortunately, the Congressional Budget Office has said that this bill will cost about $7 billion over 5 years.

Members on both sides of the aisle wanted a chance to pay for this so that they were not seen as voting for something that would invade the Social Security Trust Fund and break the caps and causes budgetary problems. But that amendment which was desired by proponents of Dingell-Norwood was not allowed to be made.

Secondly, the access bill, which is now going to be taken up even though we did not take it up in committee, does not have pay-fors, as well. So if it passes and becomes part of this bill, we have another section of the bill that costs money in the budget and is not paid for. I just think this is unnecessary.

First of all, the Patients' Bill of Rights should be on its own, should not be subsumed under some other bill for access which was not really the subject of this matter to begin with.

Second, if it is going to be subsumed under it, we should be allowed to figure out a way to pay for it. Thirdly, we ought to be able to pay for the Patients' Bill of Rights. None of that is allowed in the bill.

My fear is that, at the end of the day, even if Dingell-Norwood survives, the votes are not going to be there to pass the bill because of these other matters that were not dealt with properly in the rule.

I ask the majority leadership to rethink this matter and to try to get us a rule or a procedure that will allow a fair consideration of patients.

I guess I just end with saying, putting all of this procedural wrangle aside, let us all try to remember what this legislation is about. It is about helping people, children, seniors, women, men, who want to have an enforceable right to have the decisions about their health care made by the doctors and them together to be able to do that, to have an enforceable right that they can bring against their health insurance company or their HMO. That is what is at stake here.

We have a chance as a House of Representatives, in a bipartisan way, to do something that is deeply desired by the American people. I hope that this rule in its present form will be defeated, and I hope we will find a procedure and a rule that will allow fair consideration of this very, very important legislation.

Mr. FROST. Mr. Speaker, I yield 1 minute to the 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. Mr. Speaker, I do not know what it will take for my colleagues on both sides of the House to acknowledge, as I said earlier this morning, that more than 83 percent of the American people are asking us to vote for a freestanding, upstanding HMO reform bill today. And I think one of those is little Steve Olson, a 2-year-old who went hiking with his parents. As he was hiking he fell ill, went to an emergency room, and was treated for meningitis. But the little boy still experienced pain, could not express himself. They went back to that emergency room, but they could not get any more care, they could not get him to do a brain scan because the HMO denied it. And now this little boy, because he had a lump on his brain, has cerebral palsy.

The American people are asking us to stop the parliamentary maneuvers that would not allow us to have a freestanding bill on managed care, access to emergency rooms, the sanctity of the physician-patient relationship; and the American people are asking us to deal with the uninsured in a separate manner because there are working poor who cannot pay for their insurance and this bill does not do it. The American people have asked us to have an amendment on $7 billion to ensure that we pay for this.

Mr. Speaker, I just conclude by saying, my colleagues, let us join together and get a real HMO reform bill, the Dingell-Norwood bill.

Mr. Speaker, I rise to strongly oppose the rule for today's managed care bills. The rule is a sham and seeks to undermine these two vital health bills.

Instead of providing a fair and open rule for considering the patients' bill of rights, the majority has written an unreasonable rule that combines the managed care bill with a measure riddled with special interest ''poison pills'' designed to kill the measure. This rule guarantees that we will not be able to offset any potential revenue losses from the measure, and we will not be able to establish the health care services that we hoped to provide for the citizens of this country.

The majority has shown a grave error in judgment by including special interest provisions in the managed care bill. This act is fiscally irresponsible because no funding is provided for these provisions. Worse yet, this rule denies a bipartisan group of members from offering an amendment to pay for this bill.

Because the access bill and managed care bill are combined in one rule, managed care reform may be defeated through parliamentary maneuvering. This is untenable.

Merging these bills into one rule is unacceptable because it combines a bill that helps those who need health care, H.R. 2723, with

a bill, H.R. 2990, that simply helps the Nation's most healthy and wealthy, and not the uninsured. We must separate these two bills so we can ensure that H.R. 2723 provides new patient protections, sets nationwide standards for health insurance, and expands medical liability. These issues are vitally important to all of the American people, not just the privileged.

Yet, these bills, these once glimmering symbols of managed care reform that sought to stretch their healing arms around each of our citizens, have now been twisted and manipulated into one hideous, unrecognizable heap of special interest slag. In particular, poison pill amendments have been offered to the Bipartisan Consensus Managed Care Improvement Act of 1999. The Boehner amendment benefits the healthy and wealth instead of the uninsured, those who need the most help. The Goss-Coburn amendment weakens patient protections, cap non-economic damages, and guts enforcement provisions. The Houghton-Graham amendment provides far too weak federal remedies and internal reveiw procedures.

An open rule would allow us to correct these problems. But by providing only one rule for both HMO bills, we prevent ourselves from doing any good today. Do we want to tell the American public that it will not receive the managed care reform it has so desperately sought because of a procedural bar?

The sobering truth is that our citizens need health care reform—especially those living in poverty. Over one-third of the U.S. population was living in or near poverty in 1996. The majority of African-American (55 percent) and persons of Hispanic origin (60 percent) lived in families classified as poor or near poor. In the southern portions of the United States, the poverty rate is 15 percent. My home State of Texas had poverty rate over 16 percent. Of those suffering from poverty, 44.1 percent are uninsured. 44.4 percent of African-Americans in poverty are uninsured, and 58.7 percent of Hispanics in poverty are uninsured. These numbers are sobering, and we must do something about them.

People living in poverty, and many minority citizens, simply cannot afford health insurance, and, in turn, cannot obtain quality health care. Their lack of access to quality health care has devastating effects because many minority groups and people living in poverty are particularly susceptible to health problems. Racial and ethnic minorities constitute approximately 25 percent of the total U.S. population, yet, they account for nearly 54 percent of all AIDS cases. For men and women combined, blacks have a cancer death rate about 35 percent higher than that for whites. The age-adjusted death rate for coronary heart disease for the total population declined by 20 percent from 1987 to 1995; for blacks the overall decrease was only 13 percent.

The Bipartisan Consensus Managed Care Improvement Act of 1999 is also important due to the reforms it provides because even when people do have insurance, quality health care is not guaranteed. Take for instance, Steven Olson—a once healthy, thriving two-year old child. After falling on a stick while hiking with his parents, two-year-old Steven was rushed to the emergency room where he was treated. His mother returned him a week later because he was in great pain. He was treated for meningitis and sent home. Steven continued to complain about pain, but despite his parents' protest, the HMO doctors refused to perform a brain scan, even though it was a covered benefit. Steven eventually fell into a coma due to a brain abscess that herniated. He now has cerebral palsy. An $800 brain scan would have prevented this tragedy.

In an even more tragic case, a woman attempted to switch doctors when it became clear that her original doctor would not fully examine a growing and discolored mole on her ankle. Paperwork and bureaucracy resulted in a six-month wait. Once the woman finally visited a second-doctor, she was immediately sent to a dermatologist who determined that the mole was a malignant melanoma. The woman died one year later.

Both sides of the aisle should be working together to ensure that these stories never surface ever again. Yet, this rule encourages special interest ''gutting'' of the bill, and negates any amendment that would provide the necessary $7 billion in offsets for revenue losses estimated to result from increased deductions for higher medical premiums.

Over 200 organizations support the Bipartisan Consensus Managed Care Improvement Act of 1999—including AIDS Action, the American Academy of Pediatrics, the American Heart Association, the American Medical Association, and the National Association of Public Hospitals. But these organizations cannot support the bill as offered. The special interest additions and weakened bill language undermine the goals of these groups. Without an open rule that would allow us to correct these problems, we will essentially slam the door on the very groups who can provide us with the greatest support and resources.

This rule does not penalize the minority side; it penalizes the very people we represent—the American taxpayers. We need an open rule that will permit the enactment of effective managed care reform.

I urge my colleagues to vote ''no'' against this unfair rule and against this distorted version of the bill.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman from California (Mr. THOMAS), a member of the Committee on Ways and Means, just appeared on the floor and made a statement that there was a provision relating to Davis-Bacon in the amendment the Democrats sought in order.

I have consulted the Committee on Ways and Means staff. That is not true. There is nothing in the amendment that was offered by the Democrats relating to Davis-Bacon.

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

Mr. GOSS. Mr. Speaker, I take great pleasure in yielding 1 minute to the distinguished gentleman from Florida (Mr. SHAW), a member of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank my friend for yielding this time to me.

Mr. Speaker, when the gentleman from Missouri (Mr. GEPHARDT) was on the floor talking about wishing that the pay-fors were in the bill, I would like to point out that both he and the gentleman from Michigan (Mr. DINGELL) have signed a discharge petition asking that this bill in its form that it is going to be made in order under this rule be brought directly to the floor.

In that bill, there were no pay-fors. If they would attempt to put a paid-for in as an amendment, it would be nongermane. So they have already asked by way of a discharge petition that this bill be brought to the floor without any pay-fors.

Now, regarding the pay-fors that were requested in the Committee on Rules, one of those, and the largest one of which, has never had a hearing before the Committee on Ways and Means. It is a tax increase.

As long as I have been in this Congress, both under Democrat control and under Republican control, I can never remember a single time when this Congress was so irresponsible as to bringing a tax increase directly to the floor without even so much as a hearing before the Committee on Ways and Means. That would be irresponsible on our side, and it would be equally irresponsible on the Democrats' side.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentleman from Texas for yielding me the time.

Mr. Speaker, the American public is not going to be fooled by clever tactics. This has been a long-standing process with the Patients' Bill of Rights, and the American public is aware of that.

In the 105th session we talked about coming forward with a meaningful Patients' Bill of Rights, and that was put off by people who were carrying water for the special interests and the insurance groups.

We fought all the way through that. We found a way to build a coalition with Republicans and Democrats that were bold enough and strong enough to step forward and give real patients' rights, talking about the idea that insurance companies would be no longer the ones to determine what is medically necessary just on the basis of cost; but we would take this out of that venue and leave it to doctors and patients to decide the issue of medical necessity.

This Patients' Bill of Rights will allow people to determine if they need to go to a specialist and get that care. We have right after right in there that, finally, we have enough Republicans and almost all the Democrats on it that it will pass. And it is at that point in time that the leadership of the majority decides that they now have to get clever.

It is not enough to try to fight it on its merits. It is not enough to try to fight it on a fair rule. It is not enough to bring it forward for a straight up or down vote. Because they know now the political pressure in this country demands Patients' Bill of Rights in the form of Norwood-Dingell. They refuse to do it. They are being clever. The American public will certainly not be fooled by that.

Mr. GOSS. Mr. Speaker, I am very happy to yield 1 minute to the distinguished gentleman from Tennessee (Mr. BRYANT).

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

Mr. BRYANT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, there are two bills, I might remind my colleagues on the floor. One bill that we will discuss later today and tomorrow will consider various ways to provide patient protection to people in America. And many of us support that.

But right now what we are talking about is a rule that also covers an access bill which we are going to debate immediately after this rule. What this access bill does is it provides an opportunity for 44 million people who do not have insurance right now who do not have anything to do with that second bill because they do not have any insurance. They do not need protection from anything.

What we need to do now in this rule and in this bill is pass this so we can deal with those 44 million people and provide them access, the opportunity to see a doctor, go to a hospital, and get good quality care at affordable prices.

What this bill will do, it will not set up another Government entitlement; but it will provide incentives to private businesses, tax deductions, tax credits, and opportunities to pool together in areas that will be able to get them to affordable, quality, insurance coverage.

These folks do not care about this other thing right now until they get that coverage.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

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

Mr. GREEN of Texas. Mr. Speaker, I am surprised that we have this rule here on the floor today and hear the debate talking about the access bill that will allow 44 million people to have insurance.

We have had a Republican majority for 6 years, and it is the first time I have heard concern for that 44 million. My colleagues talk about these bills did not have a hearing in the Committee on Ways and Means at any time was a decision by the Republican leadership not to have a hearing on any of these bills.

I worked for years on the Committee on Commerce so I could deal with health care. None of the bills had hearings that we are debating today in the decision to bring them to the floor. It is becoming increasingly clear that the leadership does not reflect the views of the majority of this House on many issues.

The Republican leadership is using the Committee on Rules to defeat legislation supported by majority Members of the House and attempting to defeat by subterfuge what they cannot defeat on a straight up or down vote.

The Republican leadership cannot defeat the bipartisan Norwood-Dingell proposal, so it attempts to change the proposal so that it is unacceptable to the bipartisan Members who support a real strong Patients' Bill of Rights. That is why this rule is so wrong. That is why it should be defeated.

By denying the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL) the right to finance the small portion of their legislation, the Republican leadership is trying to create a situation that they can claim that a vote for a Patients' Bill of Rights is an effort to spend the Social Security surplus.

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That is not the intent. Hopefully, before the day is through, we will have a chance to pass a clean Norwood-Dingell bill. It is what the people want, what 83 percent of the people in a most recent poll said. I know at all the town hall meetings that I have they say that. They want patient protections just like, Mr. Speaker, we enjoy in Texas for our constituents under Texas law. We need them for all the Americans.

Mr. GOSS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would point out that all but one of the speakers on the other side, according to my records, signed a discharge petition to bring this matter forward, the original bill, the underlying bill, to our attention, without the pay-fors in it.

I would point out that this is a procedure that is designed to end-run the committee system and point out particularly, as one looks at the discharge petition, that the first two signatures on it are the gentleman from Michigan (Mr. DINGELL) and the gentleman from Missouri (Mr. GEPHARDT).

If that does not send a message that this is being done in a way to end-run the regular order and put a partisan aspect to it, I do not know what does.

The other thing I would like to point out is that we have crafted a rule that does, in fact, provide for a full debate on liability, which is the nugget of the patient protection.

We have also done something in this rule, and that is provide for worrying about those Americans who do not have health care insurance, and it is time somebody did worry about them and the Republican majority is doing that and providing a way to help them. That is worthwhile, and if anybody says that is unfair they have a warped sense of what is fair in this country.

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

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we signed a discharge petition. That is the only way to get the attention of the majority. They have to be hit right between the eyes. It happens all the time around here. When we were in the majority, they signed discharge petitions. We are in the minority. We sign discharge petitions, and that was a successful effort which forced them to bring a bill to the floor they did not otherwise want to bring to the floor.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Speaker, I was proud to join in signing that discharge petition because the truth is, we would not be here today had some of us not been willing to sign that discharge petition to allow this very critical issue to be brought to the floor of this House.

The truth of the matter is, even after it has become apparent to everyone in this body that a majority of the Members of this House, if given the opportunity on a straight up or down vote, will vote for the Norwood-Dingell bill, the Committee on Rules has crafted a very complicated rule that most American people will never understand, whose sole purpose is to try to once again defeat the opportunity to pass strong patient protection legislation.

The trick they have used is to attach another bill that has a nice ring to it, a bill to provide access to health care, that just happens to have a $40 billion to $50 billion price tag on it, a bill that never had any hearings in the Committee on Ways and Means, attached to the Norwood-Dingell bill in the complicated rule that is before this House, simply to weigh it down and try to get some of the folks that are supporting the bill to vote no.

It is not going to work. At the end of the day, we will prevail because the American people want to see strong patient protection legislation.

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

Mr. Speaker, all we ask is for an opportunity to consider this legislation under a fair rule. For months and months and months the other side has decried and shed great tears about efforts to invade the Social Security trust fund. All we ask is for an honest approach to this legislation, which would permit this legislation not to take a penny out of the Social Security trust fund.

This is a good bill. Everyone agrees this is a good bill. Let us have this bill considered under a fair procedure so that we can get to the merits of the legislation. Let us not take money away from Social Security in so doing, and let us pass a strong patient protection piece of legislation.

We will oppose the rule and ask for a fair rule on this floor.

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

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I want to congratulate the gentleman from Florida (Mr. GOSS) for the fine job that he has done on this issue.

It is not often that I stand in this well somewhat saddened over the debate that we have gone through. This is one of the first times that I can remember that the gentleman from Florida (Mr. GOSS) used the word ''warped.'' Last night, he pounded on the table upstairs.

If there is any kind of unfairness, it is coming from the rhetoric that we have gotten from the other side of the aisle, using words like ''cynical'' and ''calculated'' to describe what we are doing here.

One hundred and eighty-four Members signed the discharge petition. I have to tell my friends on the other side of the aisle, that is not what it takes to force a bill to the floor.

We very much want a deal, with the fact that there are 44.3 million Americans who do not have insurance, and we want to increase accessibility for them. We also want to make sure that people are accountable when there are problems out there, and that is exactly what we are doing with the reform measure itself. We also want to make sure that affordability is out there, and that is what we are doing with this measure.

This is a very fair bill. My colleagues are screaming about one amendment on the other side of the aisle. Fifty-nine amendments were submitted to our committee. Forty-three Republicans were denied, and the Members on the other side are saying this is an unfair rule because of the six amendments the Democrats submitted, one of them was not made in order. Well, that to me is unfair rhetoric.

We are about to proceed with what I think is going to be a very fair, fair debate. In fact, we have to go back a quarter of a century, 25 years, to the debate in 1974 on the ERISA act to find a rule that is more fair.

Now a lot of people have been complaining, saying that this bill ties together the reform package and the access package. It does not do that. At the end, after the votes are taken, they are engrossed and will be sent to the other body for a conference, which we hope will address each issue.

So if someone does not want to vote for the access bill, they do not have to vote for the access bill. They can still vote for the reform bill and only after both measures pass will they be engrossed and sent to the other side of the Capitol.

So I happen to believe very strongly that we are going to begin an important debate. Everyone acknowledges that there are problems with our health care, in spite of the fact that we have the best health care system on the face of the earth. People come from all over the world to enjoy it, but there are still problems. They need to be addressed and this bill, with three balanced substitutes, will allow for an open debate, a fair debate; and I urge my colleagues to support it.

Mr. COSTELLO. I rise today in strong opposition to the process imposed in the House today by the Republican leaders. Once again the Republican-led Congress has made in order a rule they know will defeat the bipartisan Norwood-Dingell bill, the only bill that could provide real managed care reform for 32 million Americans. This is the Republicans clever way of fooling the public into thinking they would like to pass a real managed care bill.

Mr. Speaker, the rule does not allow the bipartisan Norwood-Dingell bill to be offered in its original form and then links it with another poorly crafted bill that will deny access to the 32 million uninsured individuals in the lowest income bracket. This scheme is unacceptable, the Republican leadership should be ashamed.

The ''access bill'' that will be tied to the real managed care bill is for the healthiest and wealthiest of individuals. By expanding Medical Savings Account (MSAs), the access bill discourages preventive care, and undermines the very purpose of insurance. When we voted on the Kennedy-Kassebaum Health Insurance Portability Protection Act in 1996 I supported the MSA demonstration project. However, this demonstration project turned out to be a failure. Of the 750,000 policies available only 50,000 have been sold. In my own congressional district in southwestern Illinois my constituents do not have access to these policies.

This access bill and the rule is just another attempt by the Republican-led Congress to undermine a bipartisan bill that could provide relief for millions of Americans. I am outraged that the Rules Committee denied Representative DINGELL's request to offer an amendment to pay for this legislation. As a general rule the Republican leadership demands that legislation not bust the budget caps imposed in 1997. While the Norwood-Dingell bill was not expected to require additional spending, the Congressional Budget Office estimated it would cost $7 billion. Representative DINGELL offered to offset the bill so that Members like myself who wish to protect Social Security could cast their vote in support of real managed care reform while ensuring the Social Security Trust Fund would not be touched.

As a cosponsor of the Bipartisan Consensus Managed Care Improvement Act—legislation strongly supported by doctors and by the American Medical Society and the Illinois State Medical Society—I believe it is the only real reform bill that will provide a comprehensive set of consumer rights that includes guaranteed access to emergency care and specialists, choice of providers, and strong enforcement provisions against health plans that put patients' lives in jeopardy. I am pleased the bill protects our small business owners by excluding businesses from liability if they do not make the decisions. This bill contains provisions that create safe harbors to ensure that no trial lawyer will accuse an employer of making a decision by simply choosing what benefits are in a plan or providing a patient benefit not in a plan. I am encouraged by the State of Texas who gave their citizens the right to sue HMOs for the past 2 years. In that time there have only been four cases filed.

I urge my colleagues to oppose this rule and support real managed care reform legislation. Vote for the bipartisan Norwood-Dingell legislation.

Ms. MILLENDER-MCDONALD. Mr. Speaker, our day has been consumed with debate on a desperate rule drafted to derail the bipartisan managed care reform bill. This disheartens me because the Norwood-Dingell bill is a good bill. It is such a good bill; the three alternatives have used it as their base. Why is that? Maybe because over 260 medical organizations have endorsed it. Maybe because many of our constituents want us to pass it. Whatever the reasons may be, they are all for naught if this good bill has to be joined with the poison pill train that the rules committee placed on our tracks.

The Norwood-Dingell bill allows women to obtain routine ob/gyn care from their ob/gyn without prior authorizations or referral. This is a good step in the right direction. As a staunch advocate for women, I prefer women having the opportunity to designate their ob/gyn as their primary care provider but—that is another battle for another time.

Norwood-Dingell also looks out for our children. Parents now have the opportunity to select a pediatrician as a primary care provider. This provision gives parents a level of comfort knowing that their child's doctor understands the health needs of children.

Mr. Speaker, this bill needs a straight up or down vote. It should not be joined and we should not be forced to vote on both bills. When a straight up or down vote—without poison pills—is allowed, I urge my colleagues to vote ''yes'' on the Norwood-Dingell bipartisan managed care reform bill.

Mr. GOSS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

MOTION TO ADJOURN

Mr. FROST. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. LATHAM). The Clerk will report the motion.

The Clerk read as follows:

Mr. FROST moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from Texas (Mr. FROST).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 3, nays 423, not voting 7, as follows:

[Roll No. 482]

YEAS—3

Dingell Kennedy Obey

NAYS—423

Abercrombie	Dickey	Kaptur
Ackerman	Dicks	Kasich
Aderholt	Dixon	Kelly
Allen	Doggett	Kildee
Andrews	Dooley	Kilpatrick
Archer	Doolittle	Kind (WI)
Armey	Doyle	King (NY)
Bachus	Dreier	Kingston
Baird	Duncan	Kleczka
Baker	Dunn	Klink
Baldacci	Edwards	Knollenberg
Baldwin	Ehlers	Kolbe
Ballenger	Ehrlich	Kucinich
Barcia	Emerson	Kuykendall
Barr	Engel	LaFalce
Barrett (NE)	English	LaHood
Barrett (WI)	Eshoo	Lampson
Bartlett	Etheridge	Lantos
Barton	Evans	Largent
Bass	Everett	Larson
Bateman	Ewing	Latham
Becerra	Farr	LaTourette
Bentsen	Fattah	Lazio
Bereuter	Filner	Leach
Berkley	Fletcher	Lee
Berman	Foley	Levin
Berry	Forbes	Lewis (CA)
Biggert	Ford	Lewis (GA)
Bilbray	Fossella	Lewis (KY)
Bilirakis	Fowler	Linder
Bishop	Frank (MA)	Lipinski
Blagojevich	Franks (NJ)	LoBiondo
Bliley	Frelinghuysen	Lofgren
Blumenauer	Frost	Lowey
Blunt	Gallegly	Lucas (KY)
Boehlert	Ganske	Lucas (OK)
Boehner	Gejdenson	Luther
Bonilla	Gekas	Maloney (CT)
Bonior	Gephardt	Maloney (NY)
Bono	Gibbons	Manzullo
Borski	Gilchrest	Markey
Boswell	Gillmor	Martinez
Boucher	Gilman	Mascara
Boyd	Gonzalez	Matsui
Brady (PA)	Goode	McCarthy (MO)
Brady (TX)	Goodlatte	McCarthy (NY)
Brown (FL)	Goodling	McCollum
Bryant	Gordon	McCrery
Burr	Goss	McDermott
Burton	Graham	McGovern
Buyer	Granger	McHugh
Callahan	Green (TX)	McInnis
Calvert	Green (WI)	McIntosh
Camp	Greenwood	McIntyre
Campbell	Gutierrez	McKeon
Canady	Gutknecht	McNulty
Cannon	Hall (OH)	Meehan
Capps	Hall (TX)	Meek (FL)
Capuano	Hansen	Meeks (NY)
Cardin	Hastings (FL)	Menendez
Carson	Hastings (WA)	Metcalf
Castle	Hayes	Mica
Chabot	Hayworth	Millender-McDonald
Chambliss	Hefley	Miller (FL)
Chenoweth-Hage	Herger	Miller, Gary
Clay	Hill (IN)	Miller, George
Clayton	Hill (MT)	Minge
Clement	Hilleary	Mink
Clyburn	Hilliard	Moakley
Coble	Hinchey	Mollohan
Coburn	Hinojosa	Moore
Collins	Hobson	Moran (KS)
Combest	Hoeffel	Moran (VA)
Condit	Hoekstra	Morella
Conyers	Holden	Murtha
Cook	Holt	Myrick
Cooksey	Hooley	Nadler
Costello	Horn	Napolitano
Cox	Hostettler	Neal
Coyne	Houghton	Nethercutt
Cramer	Hoyer	Ney
Crane	Hulshof	Northup
Crowley	Hutchinson	Norwood
Cubin	Hyde	Nussle
Cummings	Inslee	Oberstar
Cunningham	Isakson	Olver
Danner	Jackson (IL)	Ortiz
Davis (FL)	Jackson-Lee (TX)	Ose
Davis (IL)	Jefferson	Owens
Davis (VA)	Jenkins	Oxley
Deal	John	Packard
DeFazio	Johnson (CT)	Pallone
DeGette	Johnson, E. B.	Pascrell
DeLauro	Johnson, Sam	Pastor
DeLay	Jones (NC)	Paul
DeMint	Jones (OH)	Payne
Deutsch	Kanjorski	Pease
Diaz-Balart	Kaptur	Pelosi
Dickey	Kasich	Peterson (MN)
Dicks	Kelly	Peterson (PA)
Dixon	Kildee	Petri
Doggett	Kilpatrick	Phelps
Dooley	Kind (WI)	Pickering
Doolittle	King (NY)	Pickett
Doyle	Kingston	Pitts
Dreier	Kleczka	Pombo
Duncan	Klink	Pomeroy
Dunn	Knollenberg	Porter
Edwards	Kolbe	Portman
Ehlers	Kucinich	Price (NC)
Ehrlich	Kuykendall	Pryce (OH)
Emerson	LaFalce	Quinn
Engel	LaHood	Radanovich
English	Lampson	Rahall
Eshoo	Lantos	Ramstad
Etheridge	Largent	Rangel
Evans	Larson	Regula
Everett	Latham	Reyes
Ewing	LaTourette	Reynolds
Farr	Lazio	Riley
Fattah	Leach	Rivers
Filner	Lee	Rodriguez
Fletcher	Levin	Roemer
Foley	Lewis (CA)	Rogan
Forbes	Lewis (GA)	Rogers
Ford	Lewis (KY)	Rohrabacher
Fossella	Linder	Ros-Lehtinen
Fowler	Lipinski	Rothman
Frank (MA)	LoBiondo	Roukema
Franks (NJ)	Lofgren	Roybal-Allard
Frelinghuysen	Lowey	Royce
Frost	Lucas (KY)	Rush
Gallegly	Lucas (OK)	Ryan (WI)
Ganske	Luther	Ryun (KS)
Gejdenson	Maloney (CT)	Sabo
Gekas	Maloney (NY)	Salmon
Gephardt	Manzullo	Sanchez
Gibbons	Markey	Sanders
Gilchrest	Martinez	Sandlin
Gillmor	Mascara	Sanford
Gilman	Matsui	Sawyer
Gonzalez	McCarthy (MO)	Saxton
Goode	McCarthy (NY)	Schaffer
Goodlatte	McCollum	Schakowsky
Goodling	McCrery	Scott
Gordon	McDermott	Sensenbrenner
Goss	McGovern	Serrano
Graham	McHugh	Sessions
Granger	McInnis	Shadegg
Green (TX)	McIntosh	Shaw
Green (WI)	McIntyre	Shays
Greenwood	McKeon	Sherman
Gutierrez	McNulty	Sherwood
Gutknecht	Meehan	Shimkus
Hall (OH)	Meek (FL)	Shows
Hall (TX)	Meeks (NY)	Shuster
Hansen	Menendez	Simpson
Hastings (FL)	Metcalf	Sisisky
Hastings (WA)	Mica	Skeen
Hayes	Millender-McDonald	Skelton
Hayworth	Miller (FL)	Slaughter
Hefley	Miller, Gary	Smith (MI)
Herger	Miller, George	Smith (NJ)
Hill (IN)	Minge	Smith (TX)
Hill (MT)	Mink	Smith (WA)
Hilleary	Moakley	Snyder
Hilliard	Mollohan	Souder
Hinchey	Moore	Spence
Hinojosa	Moran (KS)	Spratt
Hobson	Moran (VA)	Stabenow
Hoeffel	Morella	Stark
Hoekstra	Murtha	Stearns
Holden	Myrick	Stenholm
Holt	Nadler	Strickland
Hooley	Napolitano	Stump
Horn	Neal	Stupak
Hostettler	Nethercutt	Sununu
Houghton	Ney	Sweeney
Hoyer	Northup	Talent
Hulshof	Norwood	Tancredo
Hutchinson	Nussle	Tanner
Hyde	Oberstar	Tauscher
Inslee	Olver	Tauzin
Isakson	Ortiz	Taylor (MS)
Jackson (IL)	Ose	Taylor (NC)
Jackson-Lee (TX)	Owens	Terry
Jefferson	Oxley	Thomas
Jenkins	Packard	Thompson (CA)
John	Pallone	Thompson (MS)
Johnson (CT)	Pascrell	Thornberry
Johnson, E. B.	Pastor	Thune
Johnson, Sam	Paul	Thurman
Jones (NC)	Payne	Tiahrt
Jones (OH)	Pease	Tierney
Kanjorski	Pelosi	Toomey
Kaptur	Peterson (MN)	Towns
Kasich	Peterson (PA)	Traficant
Kelly	Petri	Turner
Kildee	Phelps	Udall (CO)
Kilpatrick	Pickering	Udall (NM)
Kind (WI)	Pickett	Upton
King (NY)	Pitts	Velazquez
Kingston	Pombo	Vento
Kleczka	Pomeroy	Visclosky
Klink	Porter	Vitter
Knollenberg	Portman	Walden
Kolbe	Price (NC)	Walsh
Kucinich	Pryce (OH)	Wamp
Kuykendall	Quinn	Waters
LaFalce	Radanovich	Watkins
LaHood	Rahall	Watt (NC)
Lampson	Ramstad	Watts (OK)
Lantos	Rangel	Waxman
Largent	Regula	Weiner
Larson	Reyes	Weldon (FL)
Latham	Reynolds	Weldon (PA)
LaTourette	Riley	Weller
Lazio	Rivers	Wexler
Leach	Rodriguez	Weygand
Lee	Roemer	Whitfield
Levin	Rogan	Wicker
Lewis (CA)	Rogers	Wilson
Lewis (GA)	Rohrabacher	Wolf
Lewis (KY)	Ros-Lehtinen	Woolsey
Linder	Rothman	Wu
Lipinski	Roukema	Wynn
LoBiondo	Roybal-Allard	Young (AK)
Lofgren	Royce	Young (FL)
Lowey	Rush	
Lucas (KY)	Ryan (WI)	
Lucas (OK)	Ryun (KS)	
Luther	Sabo	
Maloney (CT)	Salmon	
Maloney (NY)	Sanchez	
Manzullo	Sanders	
Markey	Sandlin	
Martinez	Sanford	
Mascara	Sawyer	
Matsui		
McCarthy (MO)		
McCarthy (NY)		
McCollum		
McCrery		
McDermott		
McGovern		
McHugh		
McInnis		
McIntosh		
McIntyre		
McKeon		
McNulty		
Meehan		
Meek (FL)		
Meeks (NY)		
Menendez		
Metcalf		
Mica		
Millender-McDonald		
Miller (FL)		
Miller, Gary		
Miller, George		
Minge		
Mink		
Moakley		
Mollohan		
Moore		
Moran (KS)		
Moran (VA)		
Morella		
Murtha		
Myrick		
Nadler		
Napolitano		
Neal		
Nethercutt		
Ney		
Northup		
Norwood		
Nussle		
Oberstar		
Olver		
Ortiz		
Ose		
Owens		
Oxley		
Packard		
Pallone		
Pascrell		
Pastor		
Paul		
Payne		
Pease		

NOT VOTING—7

Brown (OH)	Istook	Wise
Delahunt	McKinney	
Hunter	Scarborough	

☐ 1246

Messrs. BALLENGER, YOUNG of Alaska, COYNE, Ms. PELOSI, and Messrs. VITTER, MINGE and OWENS changed their vote from ''yea'' to ''nay.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

☐ 1245

The SPEAKER pro tempore (Mr. BONILLA). Without objection, the previous question is ordered on the resolution.

There was no objection.

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

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

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

The yeas and nays were ordered.

☐ 1252

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONILLA) during the voting. The Chair has been advised that there is difficulty with some of the votes being displayed to the Members' left, on the far left panel. There have been Members reporting that after they have cast their vote, that on the far left panel their votes are not being accurately reflected, but their votes are being properly recorded.

But Members should be cautious about what they see on the panel and should reconfirm with their cards their actual votes.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Michigan is recognized for a parliamentary inquiry relating to the vote.

Mr. DINGELL. Mr. Speaker, I note that the display over on the right and the left of the Chamber give the number of the Members who have voted. I note that there is no display of the names of the Members who have voted in back of the Chair, the presiding officer.

What does this mean with regard to the regularity and the correctness of the vote?

The SPEAKER pro tempore. The Chair would cite Speaker O'Neill's ruling on 19 September 1985. The Speaker has the discretion, in the event of a malfunction of the electronic voting system, to, one, continue to utilize the electronic system, even though the electronic display panels are inoperative, where the voting stations continue in proper operation and Members are able to verify their votes; or, number two, to utilize a backup voting procedure, such as calling the roll.

In this case, the Clerk has indicated that the voting tallies are correct. There is no reason at this time for the Chair to have in doubt that the totals displayed on either side of the Chamber are incorrect.

Mr. DINGELL. Further parliamentary inquiry.

The SPEAKER pro tempore. The Chair will continue to allow Members, if there is a question about a Member's particular vote, the Chair will allow the vote to remain open a little while longer if there is a question any Member has about casting his or her vote.

Mr. DINGELL. Further parliamentary inquiry, Mr. Speaker.

Mr. Speaker, how is a Member to know how he is recorded on this particular vote?

The SPEAKER pro tempore. Any Member can re-insert his or her voting card in any voting station, electronic station.

The monitor indicates that every Republican has voted in favor of this resolution, and all but one Democrat is opposed. So that might also be another indication that the vote, unless there is dispute, is accurate.

Mr. DINGELL. Further parliamentary inquiry. I have noted, Mr. Speaker, that a Member on the majority side had voted no on the rule on the display behind the Chair of the Speaker. I am curious, what does that mean in terms of the reliability of the vote?

The SPEAKER pro tempore. The Clerk is certifying that the vote is being accurately recorded.

Mr. DINGELL. Further parliamentary inquiry. Could the Chair inform the Chamber what the Clerk has done to assure that the vote is reliable and correct? I have great respect for the

Clerk, but we have a malfunction in the electronic system.

My question is, who do we believe, the malfunctioning electronic system or the Clerk of the House?

The SPEAKER pro tempore. The Clerk has responded to every Member and checked every Member's vote of any Member who has come forward to question the recording of their vote.

At this time there is no pending question from any Member about the accuracy of their vote being recorded.

Mr. DINGELL. If the Chair would permit, I believe a check by the Clerk will indicate that there are Members who are no longer listed on the computer anymore. I am advised that that constitutes a problem insofar as Members on this side of the aisle are concerned.

I know the Chair is anxious to have a correct vote. I know the Chair also has the responsibility of assuring a correct vote.

At this particular moment, I would note to the Chair, as part of my parliamentary inquiry, that when I look up there I find that there is a display there and there is no display there, and there is a variance between the display behind the Chair and the display which is at the end of the Chamber.

The SPEAKER pro tempore. The Chair would reaffirm that it is in everyone's interest in this body to have an accurate vote established. That is the intent of every Member of this body.

Mr. DINGELL. I would tell the Chair that the gentleman from Michigan (Mr. BARCIA)——

The SPEAKER pro tempore. The Chair will further state there have been cases in the past where the displays on the boards before the media gallery have been inoperative, but that the votes recorded by the Clerk have been accurate. There is precedent for relying on the running totals.

Mr. DINGELL. Further parliamentary inquiry, Mr. Speaker. Is the gentleman from Michigan (Mr. BARCIA) listed as present and voting? I am informed he is not. I am informed that he was present and that he did vote. I am comforted at the assurances of the Clerk. I am not comforted, however, at apparent discrepancies between his comments and what I see on the displays and what I am advised with regard to the presence and the recording of the name and the vote of one Member.

The SPEAKER pro tempore. The Clerk is checking.

The gentleman from Michigan (Mr. BARCIA) is recorded as voting no.

Mr. DINGELL. Mr. Speaker, I would note, on a hurried addition, that 429 Members are listed as having been present and voting. I would note that there are 435. That means that six Members are not recorded as voting on a matter of this importance. I would assume that those Members would have been here.

I am curious, where are those Members who are not recorded as being present and having voted?

The SPEAKER pro tempore. The RECORD will show those Members not voting. The gentleman understands that occasionally there are Members who are either on leave, absent, or simply do not vote, for whatever reason they choose. It is not unusual.

Mr. DINGELL. Mr. Speaker, it is the duty of the Chair to see that all Members are properly recorded. Could the Chair assure us that somebody other than the Clerk, whose record is not an official one in this matter, has inquired into the presence or absence of these Members?

The SPEAKER pro tempore. The Chair is allowing all Members a sufficient amount of time to verify their votes at this time, if there is a question about their vote.

Mr. DINGELL. I am looking at the numbers, Mr. Speaker. I note that 16 Members are listed as not having been present and voting, or there are six Members listed as unrecorded. Do I have the assurance of the Chair that the vote is correct?

The SPEAKER pro tempore. The Chair can only assure the accuracy in the vote count by electronic device. The Chair could not account for the whereabouts of Members who have not voted, unless they are on leave.

Mr. DINGELL. Further parliamentary inquiry. Is it appropriate to request a recapitulation of the vote?

The SPEAKER pro tempore. If the gentleman would kindly delay his question, the Clerk is researching to see whether the Clerk can certify the vote at this time.

Mr. DINGELL. Would that be the Clerk that certifies it, or the Chair?

The SPEAKER pro tempore. The Chair will report the Clerk's certification or lack thereof.

Mr. DINGELL. I think this matter has been carried as far as it can be, but I would just note with distress, Mr. Speaker, that I believe the events of the last few minutes have raised questions as to the regular order of this vote.

□ 1315

Mr. Speaker, can the Clerk certify with 100 percent accuracy that the record of the votes in the displays above the doors are, in fact, 100 percent?

The SPEAKER pro tempore (Mr. BONILLA). The Chair is checking on the accuracy of the vote at this time.

Mr. DINGELL. Mr. Speaker, is it the practice of the Chair, then, or would it be the practice of the Chair to inform us of whether the Clerk's certification is 100 percent correct when that process has been completed?

The SPEAKER pro tempore. The House will be informed of the accuracy of the vote, and the Chair just asks Members' indulgence.

Mr. DINGELL. I thank the Speaker. I may have further parliamentary inquiries, Mr. Speaker.

The SPEAKER pro tempore. The Chair has been informed that the accuracy of the vote cannot be established with 100 percent accuracy.

On this occasion, the Chair will direct the Clerk to call the roll to record the yeas and nays, as provided in clause 2(b) of rule XX.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Hawaii will state his parliamentary inquiry.

Mr. ABERCROMBIE. Mr. Speaker, may I take it from the Speaker's remarks that he cannot do anything without me?

The SPEAKER pro tempore. The Clerk will call the roll alphabetically.

Mr. ABERCROMBIE. I thank the Speaker.

The SPEAKER pro tempore. The Chair will inform Members that this is the only valid vote on the resolution, H. Res. 323, on the rule, and this will be the only recorded vote. It is not a recapitulation.

The following is the result of the vote:

[Roll No. 483]

YEAS—221

Aderholt	English	Leach
Archer	Everett	Lewis (CA)
Armey	Ewing	Lewis (KY)
Bachus	Fletcher	Linder
Baker	Foley	LoBiondo
Ballenger	Fossella	Lucas (OK)
Barr	Fowler	Manzullo
Barrett (NE)	Franks (NJ)	McCollum
Bartlett	Frelinghuysen	McCrery
Barton	Gallegly	McHugh
Bass	Ganske	McInnis
Bateman	Gekas	McIntosh
Bereuter	Gibbons	McKeon
Biggert	Gilchrest	Metcalf
Bilbray	Gillmor	Mica
Bilirakis	Gilman	Miller (FL)
Bliley	Goodlatte	Miller, Gary
Blunt	Goodling	Moran (KS)
Boehlert	Goss	Morella
Boehner	Graham	Myrick
Bonilla	Granger	Nethercutt
Bono	Green (WI)	Ney
Brady (TX)	Greenwood	Northup
Bryant	Gutknecht	Norwood
Burr	Hansen	Nussle
Burton	Hastert	Ose
Buyer	Hastings (WA)	Oxley
Callahan	Hayes	Packard
Calvert	Hayworth	Paul
Camp	Hefley	Pease
Campbell	Herger	Peterson (MN)
Canady	Hill (MT)	Peterson (PA)
Cannon	Hilleary	Petri
Castle	Hobson	Pickering
Chabot	Hoekstra	Pitts
Chambliss	Horn	Pombo
Chenoweth-Hage	Hostettler	Porter
Coble	Houghton	Portman
Coburn	Hulshof	Pryce (OH)
Collins	Hunter	Quinn
Combest	Hutchinson	Radanovich
Cook	Hyde	Ramstad
Cooksey	Isakson	Regula
Cox	Istook	Reynolds
Crane	Jenkins	Riley
Cubin	Johnson (CT)	Rogan
Cunningham	Johnson, Sam	Rogers
Davis (VA)	Jones (NC)	Rohrabacher
Deal	Kasich	Ros-Lehtinen
DeLay	Kelly	Roukema
DeMint	King (NY)	Royce
Diaz-Balart	Kingston	Ryan (WI)
Dickey	Knollenberg	Ryun (KS)
Doolittle	Kolbe	Salmon
Dreier	Kuykendall	Sanford
Duncan	LaHood	Saxton
Dunn	Largent	Schaffer
Ehlers	Latham	Sensenbrenner
Ehrlich	LaTourette	Sessions
Emerson	Lazio	Shadegg

Shaw	Sununu	Walden
Shays	Sweeney	Walsh
Sherwood	Talent	Wamp
Shimkus	Tancredo	Watkins
Shuster	Tauzin	Weldon (FL)
Simpson	Taylor (NC)	Weldon (PA)
Skeen	Terry	Weller
Smith (MI)	Thomas	Whitfield
Smith (NJ)	Thornberry	Wicker
Smith (TX)	Thune	Wilson
Souder	Tiahrt	Wolf
Spence	Toomey	Young (AK)
Stearns	Upton	Young (FL)
Stump	Vitter	

NAYS—209

Abercrombie	Gutierrez	Oberstar
Ackerman	Hall (OH)	Obey
Allen	Hall (TX)	Olver
Andrews	Hastings (FL)	Ortiz
Baird	Hill (IN)	Owens
Baldacci	Hilliard	Pallone
Baldwin	Hinchey	Pascrell
Barcia	Hinojosa	Pastor
Barrett (WI)	Hoeffel	Payne
Becerra	Holden	Pelosi
Bentsen	Holt	Phelps
Berkley	Hooley	Pickett
Berman	Hoyer	Pomeroy
Berry	Inslee	Price (NC)
Bishop	Jackson (IL)	Rahall
Blagojevich	Jackson-Lee (TX)	Rangel
Blumenauer	Jefferson	Reyes
Bonior	John	Rivers
Borski	Johnson, E. B.	Rodriguez
Boswell	Jones (OH)	Roemer
Boucher	Kanjorski	Rothman
Boyd	Kaptur	Roybal-Allard
Brady (PA)	Kennedy	Rush
Brown (FL)	Kildee	Sabo
Brown (OH)	Kilpatrick	Sanchez
Capps	Kind (WI)	Sanders
Capuano	Kleczka	Sandlin
Cardin	Klink	Sawyer
Carson	Kucinich	Schakowsky
Clay	LaFalce	Scott
Clayton	Lampson	Serrano
Clement	Lantos	Sherman
Clyburn	Larson	Shows
Condit	Lee	Sisisky
Conyers	Levin	Skelton
Costello	Lewis (GA)	Slaughter
Coyne	Lipinski	Smith (WA)
Cramer	Lofgren	Snyder
Crowley	Lowey	Spratt
Cummings	Lucas (KY)	Stabenow
Danner	Luther	Stark
Davis (FL)	Maloney (CT)	Stenholm
Davis (IL)	Maloney (NY)	Strickland
DeFazio	Markey	Stupak
DeGette	Martinez	Tanner
DeLauro	Mascara	Tauscher
Deutsch	Matsui	Taylor (MS)
Dicks	McCarthy (MO)	Thompson (CA)
Dingell	McCarthy (NY)	Thompson (MS)
Dixon	McDermott	Thurman
Doggett	McGovern	Tierney
Dooley	McIntyre	Towns
Doyle	McNulty	Traficant
Edwards	Meehan	Turner
Engel	Meek (FL)	Udall (CO)
Eshoo	Meeks (NY)	Udall (NM)
Etheridge	Menendez	Velazquez
Evans	Millender-McDonald	Vento
Farr	Miller, George	Visclosky
Fattah	Minge	Waters
Filner	Mink	Watt (NC)
Forbes	Moakley	Waxman
Ford	Mollohan	Weiner
Frank (MA)	Moore	Wexler
Frost	Moran (VA)	Weygand
Gejdenson	Murtha	Wise
Gephardt	Nadler	Woolsey
Gonzalez	Napolitano	Wu
Goode	Neal	Wynn
Gordon		
Green (TX)		

NOT VOTING—4

Delahunt	Scarborough
McKinney	Watts (OK)

□ 1404

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MALFUNCTIONS WITH VOTING MACHINE NOT UNPRECEDENTED

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

Mr. THOMAS. Mr. Speaker, to briefly explain what occurred on the machinery, this is not unprecedented. On May 4, 1988, the same situation occurred. As one might guess, it is a human error.

There was a Member who had a card, and we all know that these new cards are much better than the old laminated ones but they do go bad. When that Member's name was adjusted on the visual screen, it was placed first, out of order alphabetically, and so when the votes were recorded they skipped one. They did not match up.

I want to assure every Member that the computer is far more sophisticated than that. These lights are for visual purposes only. The machine records the vote according to a unique identifier number. Regardless of where a Member might be placed alphabetically the unique number from the card records the vote.

However, I want to compliment the gentleman from Michigan (Mr. DINGELL), who is one of the few Members around here who remembers this is the way we used to do business on an ordinary basis, about a quarter of a century it was done under this system, the other half with lights. The votes were recorded accurately, but given the concern over the visual reference it was entirely appropriate to go through this procedure. It was a revisiting of a previous existence of the Congress.

Our hope is that the human errors are now minimized, but the actual vote that is recorded, notwithstanding the visual display, was recorded accurately by the machine.

QUALITY CARE FOR THE UNINSURED ACT OF 1999

Mr. BLILEY. Mr. Speaker, pursuant to House Resolution 323, I call up the bill (H.R. 2990) to amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 2990 is as follows:

H.R. 2990

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 ''Quality Care for the Uninsured Act of 1999''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Findings relating to health care choice.

TITLE I—TAX-RELATED HEALTH CARE PROVISIONS

Sec. 101. Deduction for health and long-term care insurance costs of individuals not participating in employer-subsidized health plans.
Sec. 102. Deduction for 100 percent of health insurance costs of self-employed individuals.
Sec. 103. Expansion of availability of medical savings accounts.
Sec. 104. Long-term care insurance permitted to be offered under cafeteria plans and flexible spending arrangements.
Sec. 105. Additional personal exemption for taxpayer caring for elderly family member in taxpayer's home.
Sec. 106. Expanded human clinical trials qualifying for orphan drug credit.
Sec. 107. Inclusion of certain vaccines against streptococcus pneumoniae to list of taxable vaccines; reduction in per dose tax rate.
Sec. 108. Credit for clinical testing research expenses attributable to certain qualified academic institutions including teaching hospitals.

TITLE II—GREATER ACCESS AND CHOICE THROUGH ASSOCIATION HEALTH PLANS

Sec. 201. Rules.
''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS
''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Special rules for church plans.
''Sec. 813. Definitions and rules of construction.
Sec. 202. Clarification of treatment of single employer arrangements.
Sec. 203. Clarification of treatment of certain collectively bargained arrangements.
Sec. 204. Enforcement provisions.
Sec. 205. Cooperation between Federal and State authorities.
Sec. 206. Effective date and transitional and other rules.

TITLE III—GREATER ACCESS AND CHOICE THROUGH HEALTHMARTS

Sec. 301. Expansion of consumer choice through HealthMarts.

''TITLE XXVIII—HEALTHMARTS
''Sec. 2801. Definition of HealthMart.
''Sec. 2802. Application of certain laws and requirements.
''Sec. 2803. Administration.
''Sec. 2804. Definitions.
TITLE IV—COMMUNITY HEALTH ORGANIZATIONS
Sec. 401. Promotion of provision of insurance by community health organizations.

(c) CONSTITUTIONAL AUTHORITY TO ENACT THIS LEGISLATION.—The constitutional authority upon which this Act rests is the power of Congress to regulate commerce with foreign nations and among the several States, set forth in article I, section 8 of the United States Constitution.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to make it possible for individuals, employees, and the self-employed to purchase and own their own health insurance without suffering any negative tax consequences;

(2) to assist individuals in obtaining and in paying for basic health care services;

(3) to render patients and deliverers sensitive to the cost of health care, giving them both the incentive and the ability to restrain undesired increases in health care costs;

(4) to foster the development of numerous, varied, and innovative systems of providing health care which will compete against each other in terms of price, service, and quality, and thus allow the American people to benefit from competitive forces which will reward efficient and effective deliverers and eliminate those which provide unsatisfactory quality of care or are inefficient; and

(5) to encourage the development of systems of delivering health care which are capable of supplying a broad range of health care services in a comprehensive and systematic manner.

SEC. 3. FINDINGS RELATING TO HEALTH CARE CHOICE.

(a) Congress finds that the majority of Americans are receiving health care of a quality unmatched elsewhere in the world but that 43 million Americans remain without private health insurance. Congress further finds that small business faces significant challenges in the purchase of health insurance, including higher costs and lack of choice of coverage. Congress further finds that such challenges lead to fewer Americans who are able to take advantage of private health insurance, leading to higher cost and lower quality care.

(b) Congress finds that reduction of the number of uninsured Americans is an important public policy goal. Congress further finds that the use of alternative pooling mechanisms such as Association Health Plans, HealthMarts and other innovative means could provide significant opportunities for small business and individuals to purchase health insurance. Congress further finds that the use of such mechanisms could provide significant opportunities to expand private health coverage for individuals who are employees of small business, self-employed, or do not work for employers who provide health insurance.

(c) Congress finds that the current Tax Code provides significant incentives for employers to provide health insurance coverage for their employees by providing a deduction for the employer for the cost of health insurance coverage and an exclusion from income for the employee for employer-provided health care. Congress further finds that some individuals may prefer to decline coverage under their employer's group health plan and obtain individual health insurance coverage, and some employers may wish to give employees the opportunity to do so. Congress further finds that the Internal Revenue Service has ruled that this tax treatment for the employer and employee for employer-provided health care applies even if the employer pays for individual health insurance polices for its employees. Therefore, the Tax Code makes it possible for employers to provide employees choice among health insurance coverage while retaining favorable tax treatment. Congress further finds that the present-law exclusion for employer-provided health care, together with the tax provisions in the bill, will provide more equitable tax treatment for health insurance expenses, encourage uninsured individuals to purchase insurance, expand health care options, and encourage individuals to better manage their health care needs and expenses.

(d) Congress finds that continually increasing and complex government regulation of the health care delivery system has proven ineffective in restraining costs and is itself expensive and counterproductive in fulfilling its purposes and detrimental to the care of patients.

TITLE I—TAX-RELATED HEALTH CARE PROVISIONS

SEC. 101. DEDUCTION FOR HEALTH AND LONG-TERM CARE INSURANCE COSTS OF INDIVIDUALS NOT PARTICIPATING IN EMPLOYER-SUBSIDIZED HEALTH PLANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. HEALTH AND LONG-TERM CARE INSURANCE COSTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
2002, 2003, and 2004	25
2005	35
2006	65
2007 and thereafter	100.

''(c) LIMITATION BASED ON OTHER COVERAGE.—

''(1) COVERAGE UNDER CERTAIN SUBSIDIZED EMPLOYER PLANS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer if 50 percent or more of the cost of coverage under such plan (determined under section 4980B and without regard to payments made with respect to any coverage described in subsection (e)) is paid or incurred by the employer.

''(B) EMPLOYER CONTRIBUTIONS TO CAFETERIA PLANS, FLEXIBLE SPENDING ARRANGEMENTS, AND MEDICAL SAVINGS ACCOUNTS.—Employer contributions to a cafeteria plan, a flexible spending or similar arrangement, or a medical savings account which are excluded from gross income under section 106 shall be treated for purposes of subparagraph (A) as paid by the employer.

''(C) AGGREGATION OF PLANS OF EMPLOYER.—A health plan which is not otherwise described in subparagraph (A) shall be treated as described in such subparagraph if such plan would be so described if all health plans of persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 were treated as one health plan.

''(D) SEPARATE APPLICATION TO HEALTH INSURANCE AND LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (C) shall be applied separately with respect to—

''(i) plans which include primarily coverage for qualified long-term care services or are qualified long-term care insurance contracts, and

''(ii) plans which do not include such coverage and are not such contracts.

''(2) COVERAGE UNDER CERTAIN FEDERAL PROGRAMS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to any amount paid for any coverage for an individual for any calendar month if, as of the first day of such month, the individual is covered under any medical care program described in—

''(i) title XVIII, XIX, or XXI of the Social Security Act,

''(ii) chapter 55 of title 10, United States Code,

''(iii) chapter 17 of title 38, United States Code,

''(iv) chapter 89 of title 5, United States Code, or

''(v) the Indian Health Care Improvement Act.

''(B) EXCEPTIONS.—

''(i) QUALIFIED LONG-TERM CARE.—Subparagraph (A) shall not apply to amounts paid for coverage under a qualified long-term care insurance contract.

''(ii) CONTINUATION COVERAGE OF FEHBP.—Subparagraph (A)(iv) shall not apply to coverage which is comparable to continuation coverage under section 4980B.

''(d) LONG-TERM CARE DEDUCTION LIMITED TO QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—In the case of a qualified long-term care insurance contract, only eligible long-term care premiums (as defined in section 213(d)(10)) may be taken into account under subsection (a).

''(e) DEDUCTION NOT AVAILABLE FOR PAYMENT OF ANCILLARY COVERAGE PREMIUMS.—Any amount paid as a premium for insurance which provides for—

''(1) coverage for accidents, disability, dental care, vision care, or a specified illness, or

''(2) making payments of a fixed amount per day (or other period) by reason of being hospitalized,

shall not be taken into account under subsection (a).

''(f) SPECIAL RULES.—

''(1) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—The amount taken into account by the taxpayer in computing the deduction under section 162(l) shall not be taken into account under this section.

''(2) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount taken into account by the taxpayer in computing the deduction under this section shall not be taken into account under section 213.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations requiring employers to report to their employees and the Secretary such information as the Secretary determines to be appropriate.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (17) the following new item:

''(18) HEALTH AND LONG-TERM CARE INSURANCE COSTS.—The deduction allowed by section 222.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 222. Health and long-term care insurance costs.

''Sec. 223. Cross reference.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 102. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''.

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) of such Code is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 103. EXPANSION OF AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) REPEAL OF LIMITATIONS ON NUMBER OF MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (D).

(B) Section 138 of such Code is amended by striking subsection (f).

(b) AVAILABILITY NOT LIMITED TO ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 220(c)(1)(A) of such Code (relating to eligible individual) is amended to read as follows:

''(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual if—

''(i) such individual is covered under a high deductible health plan as of the 1st day of such month, and

''(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

''(I) which is not a high deductible health plan, and

''(II) which provides coverage for any benefit which is covered under the high deductible health plan.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 220(c)(1) of such Code is amended by striking subparagraph (C).

(B) Section 220(c) of such Code is amended by striking paragraph (4) (defining small employer) and by redesignating paragraph (5) as paragraph (4).

(C) Section 220(b) of such Code is amended by striking paragraph (4) (relating to deduction limited by compensation) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(c) INCREASE IN AMOUNT OF DEDUCTION ALLOWED FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Paragraph (2) of section 220(b) of such Code is amended to read as follows:

''(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to 1/12 of the annual deductible (as of the first day of such month) of the individual's coverage under the high deductible health plan.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking ''75 percent of''.

(d) BOTH EMPLOYERS AND EMPLOYEES MAY CONTRIBUTE TO MEDICAL SAVINGS ACCOUNTS.—Paragraph (5) of section 220(b) of such Code is amended to read as follows:

''(5) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—The limitation which would (but for this paragraph) apply under this subsection to the taxpayer for any taxable year shall be reduced (but not below zero) by the amount which would (but for section 106(b)) be includible in the taxpayer's gross income for such taxable year.''.

(e) REDUCTION OF PERMITTED DEDUCTIBLES UNDER HIGH DEDUCTIBLE HEALTH PLANS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking ''$1,500'' in clause (i) and inserting ''$1,000'', and

(B) by striking ''$3,000'' in clause (ii) and inserting ''$2,000''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 220 of such Code is amended to read as follows:

''(g) COST-OF-LIVING ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1998, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) SPECIAL RULES.—In the case of the $1,000 amount in subsection (c)(2)(A)(i) and the $2,000 amount in subsection (c)(2)(A)(ii), paragraph (1)(B) shall be applied by substituting 'calendar year 1999' for 'calendar year 1997'.

''(3) ROUNDING.—If any increase under paragraph (1) or (2) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

(f) MEDICAL SAVINGS ACCOUNTS MAY BE OFFERED UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by striking ''106(b),''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 104. LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) CAFETERIA PLANS.—

(1) IN GENERAL.—Subsection (f) of section 125 of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by inserting before the period at the end ''; except that such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract''.

(b) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 of such Code (relating to contributions by employer to accident and health plans) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 105. ADDITIONAL PERSONAL EXEMPTION FOR TAXPAYER CARING FOR ELDERLY FAMILY MEMBER IN TAXPAYER'S HOME.

(a) IN GENERAL.—Section 151 of the Internal Revenue Code of 1986 (relating to allowance of deductions for personal exemptions) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ADDITIONAL EXEMPTION FOR CERTAIN ELDERLY FAMILY MEMBERS RESIDING WITH TAXPAYER.—

''(1) IN GENERAL.—An exemption of the exemption amount for each qualified family member of the taxpayer.

''(2) QUALIFIED FAMILY MEMBER.—For purposes of this subsection, the term 'qualified family member' means, with respect to any taxable year, any individual—

''(A) who is an ancestor of the taxpayer or of the taxpayer's spouse or who is the spouse of any such ancestor,

''(B) who is a member for the entire taxable year of a household maintained by the taxpayer, and

''(C) who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in paragraph (3) for a period—

''(i) which is at least 180 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

''(3) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this paragraph if the individual—

''(A) is unable to perform (without substantial assistance from another individual) at least two activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(B) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform, without reminding or cuing assistance, at least one activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(4) SPECIAL RULES.—Rules similar to the rules of paragraphs (1), (2), (3), (4), and (5) of section 21(e) shall apply for purposes of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 106. EXPANDED HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Subclause (I) of section 45C(b)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

''(I) after the date that the application is filed for designation under such section 526, and''.

(b) CONFORMING AMENDMENT.—Clause (i) of section 45C(b)(2)(A) of such Code is amended by inserting ''which is'' before ''being'' and by inserting before the comma at the end ''and which is designated under section 526 of such Act''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2000.

SEC. 107. INCLUSION OF CERTAIN VACCINES AGAINST STREPTOCOCCUS PNEUMONIAE TO LIST OF TAXABLE VACCINES; REDUCTION IN PER DOSE TAX RATE.

(a) INCLUSION OF VACCINES.—

(1) IN GENERAL.—Section 4132(a)(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

''(L) Any conjugate vaccine against streptococcus pneumoniae.''.

(2) EFFECTIVE DATE.—

(A) SALES.—The amendment made by this subsection shall apply to vaccine sales beginning on the day after the date on which the Centers for Disease Control makes a final recommendation for routine administration to children of any conjugate vaccine against streptococcus pneumoniae, but shall not take effect if subsection (c) does not take effect.

(B) DELIVERIES.—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.

(b) REDUCTION IN PER DOSE TAX RATE.—

(1) IN GENERAL.—Section 4131(b)(1) of such Code (relating to amount of tax) is amended by striking ''75 cents'' and inserting ''50 cents''.

(2) EFFECTIVE DATE.—

(A) SALES.—The amendment made by this subsection shall apply to vaccine sales after December 31, 2004, but shall not take effect if subsection (c) does not take effect.

(B) DELIVERIES.—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.

(3) LIMITATION ON CERTAIN CREDITS OR REFUNDS.—For purposes of applying section 4132(b) of the Internal Revenue Code of 1986 with respect to any claim for credit or refund filed after August 31, 2004, the amount of tax taken into account shall not exceed the tax computed under the rate in effect on January 1, 2005.

(c) VACCINE TAX AND TRUST FUND AMENDMENTS.—

(1) Sections 1503 and 1504 of the Vaccine Injury Compensation Program Modification Act (and the amendments made by such sections) are hereby repealed.

(2) Subparagraph (A) of section 9510(c)(1) of such Code is amended by striking ''August 5, 1997'' and inserting ''October 21, 1998''.

(3) The amendments made by this subsection shall take effect as if included in the provisions of the Tax and Trade Relief Extension Act of 1998 to which they relate.

(d) REPORT.—Not later than December 31, 1999, the Comptroller General of the United States shall prepare and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the operation of the Vaccine Injury Compensation Trust Fund and on the adequacy of such Fund to meet future claims made under the Vaccine Injury Compensation Program.

SEC. 108. CREDIT FOR CLINICAL TESTING RESEARCH EXPENSES ATTRIBUTABLE TO CERTAIN QUALIFIED ACADEMIC INSTITUTIONS INCLUDING TEACHING HOSPITALS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 41 the following:

''SEC. 41A. CREDIT FOR MEDICAL INNOVATION EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, the medical innovation credit determined under this section for the taxable year shall be an amount equal to 40 percent of the excess (if any) of—

''(1) the qualified medical innovation expenses for the taxable year, over

''(2) the medical innovation base period amount.

''(b) QUALIFIED MEDICAL INNOVATION EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified medical innovation expenses' means the amounts which are paid or incurred by the taxpayer during the taxable year directly or indirectly to any qualified academic institution for clinical testing research activities.

''(2) CLINICAL TESTING RESEARCH ACTIVITIES.—

''(A) IN GENERAL.—The term 'clinical testing research activities' means human clinical testing conducted at any qualified academic institution in the development of any product, which occurs before—

''(i) the date on which an application with respect to such product is approved under section 505(b), 506, or 507 of the Federal Food, Drug, and Cosmetic Act (as in effect on the date of the enactment of this section),

''(ii) the date on which a license for such product is issued under section 351 of the Public Health Service Act (as so in effect), or

''(iii) the date classification or approval of such product which is a device intended for human use is given under section 513, 514, or 515 of the Federal Food, Drug, and Cosmetic Act (as so in effect).

''(B) PRODUCT.—The term 'product' means any drug, biologic, or medical device.

''(3) QUALIFIED ACADEMIC INSTITUTION.—The term 'qualified academic institution' means any of the following institutions:

''(A) EDUCATIONAL INSTITUTION.—A qualified organization described in section 170(b)(1)(A)(iii) which is owned by, or affiliated with, an institution of higher education (as defined in section 3304(f)).

''(B) TEACHING HOSPITAL.—A teaching hospital which—

''(i) is publicly supported or owned by an organization described in section 501(c)(3), and

''(ii) is affiliated with an organization meeting the requirements of subparagraph (A).

''(C) FOUNDATION.—A medical research organization described in section 501(c)(3) (other than a private foundation) which is affiliated with, or owned by—

''(i) an organization meeting the requirements of subparagraph (A), or

''(ii) a teaching hospital meeting the requirements of subparagraph (B).

''(D) CHARITABLE RESEARCH HOSPITAL.—A hospital that is designated as a cancer center by the National Cancer Institute.

''(4) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified medical innovation expenses' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

''(c) MEDICAL INNOVATION BASE PERIOD AMOUNT.—For purposes of this section, the term 'medical innovation base period amount' means the average annual qualified medical innovation expenses paid by the taxpayer during the 3-taxable year period ending with the taxable year immediately preceding the first taxable year of the taxpayer beginning after December 31, 2000.

''(d) SPECIAL RULES.—

''(1) LIMITATION ON FOREIGN TESTING.—No credit shall be allowed under this section with respect to any clinical testing research activities conducted outside the United States.

''(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (f) and (g) of section 41 shall apply for purposes of this section.

''(3) ELECTION.—This section shall apply to any taxpayer for any taxable year only if such taxpayer elects to have this section apply for such taxable year.

''(4) COORDINATION WITH CREDIT FOR INCREASING RESEARCH EXPENDITURES AND WITH CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES.—Any qualified medical innovation expense for a taxable year to which an election under this section applies shall not be taken into account for purposes of determining the credit allowable under section 41 or 45C for such taxable year.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of such Code (relating to current year business credits) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following:

''(13) the medical innovation expenses credit determined under section 41A(a).''.

(2) TRANSITION RULE.—Section 39(d) of such Code is amended by adding at the end the following new paragraph:

''(9) NO CARRYBACK OF SECTION 41A CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the medical innovation credit determined under section 41A may be carried back to a taxable year beginning before January 1, 2001.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C of such Code is amended by adding at the end the following new subsection:

''(d) CREDIT FOR INCREASING MEDICAL INNOVATION EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified medical innovation expenses (as defined in section 41A(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 41A(a).

''(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2), (3), and (4) of subsection (c) shall apply for purposes of this subsection.''.

(d) DEDUCTION FOR UNUSED PORTION OF CREDIT.—Section 196(c) of such Code (defining qualified business credits) is amended by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) the medical innovation expenses credit determined under section 41A(a) (other than such credit determined under the rules of section 280C(d)(2)),''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding after the item relating to section 41 the following:

''Sec. 41A. Credit for medical innovation expenses.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

TITLE II—GREATER ACCESS AND CHOICE THROUGH ASSOCIATION HEALTH PLANS

SEC. 201. RULES.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''SEC. 801. ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan—

''(1) whose sponsor is (or is deemed under this part to be) described in subsection (b); and

''(2) under which at least one option of health insurance coverage offered by a health insurance issuer (which may include,

among other options, managed care options, point of service options, and preferred provider options) is provided to participants and beneficiaries, unless, for any plan year, such coverage remains unavailable to the plan despite good faith efforts exercised by the plan to secure such coverage.

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

''(2) is established as a permanent entity which receives the active support of its members and collects from its members on a periodic basis dues or payments necessary to maintain eligibility for membership in the sponsor; and

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—The applicable authority shall prescribe by regulation, through negotiated rulemaking, a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

''(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that—

''(1) such certification—

''(A) is administratively feasible;

''(B) is not adverse to the interests of the individuals covered under the plan; and

''(C) is protective of the rights and benefits of the individuals covered under the plan; and

''(2) the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

''(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation, through negotiated rulemaking, for continued certification of association health plans under this part.

''(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

''(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

''(1) a plan which offered such coverage on the date of the enactment of the Quality Care for the Uninsured Act of 1999,

''(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

''(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, which have been indicated as having average or above-average health insurance risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, and other means demonstrated by such plan in accordance with regulations which the Secretary shall prescribe through negotiated rulemaking, including (but not limited to) the following: agriculture; automobile dealerships; barbering and cosmetology; child care; construction; dance, theatrical, and orchestra productions; disinfecting and pest control; eating and drinking establishments; fishing; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; sanitary services; transportation (local and freight); and warehousing.

''SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(B) LIMITATION.—

''(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

''(C) CERTAIN PLANS EXCLUDED.—Subparagraph (A) shall not apply to an association health plan which is in existence on the date of the enactment of the Quality Care for the Uninsured Act of 1999.

''(D) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation, through negotiated rulemaking, define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

''(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

''(1) IN GENERAL.—In the case of a group health plan described in paragraph (2)—

''(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met;

''(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met; and

''(C) the requirements of section 804 shall be deemed met.

''(2) REQUIREMENTS.—A group health plan is described in this paragraph if—

''(A) the plan is a multiemployer plan; or

''(B) the plan is in existence on April 1, 1997, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

''SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor,

''(B) the sponsor, or

''(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an

employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the beneficiaries of individuals described in subparagraph (A).

''(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Quality Care for the Uninsured Act of 1999, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

''(1) the affiliated member was an affiliated member on the date of certification under this part; or

''(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

''(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

''SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

''(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

''(C) incorporates the requirements of section 806.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) The contribution rates for any participating small employer do not vary on the basis of the claims experience of such employer and do not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

''(i) setting contribution rates based on the claims experience of the plan; or

''(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

''(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

''(4) MARKETING REQUIREMENTS.—

''(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

''(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

''(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation through negotiated rulemaking.

''(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

''SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

''(1) the benefits under the plan consist solely of health insurance coverage; or

''(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

''(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

''(i) a reserve sufficient for unearned contributions;

''(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

''(iii) a reserve sufficient for any other obligations of the plan; and

''(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

''(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

''(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary (but not more than $175,000). The applicable authority may by regulation, through negotiated rulemaking, provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

''(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

''(1) $500,000, or

''(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

''(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

''(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

''(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

''(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

''(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, except that the Secretary shall reduce part or all of such annual payments, or shall provide a rebate of part or all of such a payment, to the extent that the Secretary determines that the balance in such Fund is sufficient (taking into account such a reduction or rebate) to meet all reasonable actuarial requirements. Such determination shall occur not less than once annually. In addition to any such annual payments, such payments may include such supplemental payments as the Secretary may determine to be necessary to meet reasonable actuarial requirements to carry out paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

''(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

''(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

''(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

''(3) ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

''(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

''(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

''(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term 'specific excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

''(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

''(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation through negotiated rulemaking); and

''(3) which allows for payment of premiums by any third party on behalf of the insured plan.

''(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe through negotiated rulemaking.

''(j) SOLVENCY STANDARDS WORKING GROUP.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of the Quality Care for the Uninsured Act of 1999, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

''(2) MEMBERSHIP.—The Working Group shall consist of 18 members appointed by the applicable authority as follows:

''(A) 3 representatives of the National Association of Insurance Commissioners;

''(B) 3 representatives of the American Academy of Actuaries;

''(C) 3 representatives of the State governments, or their interests;

''(D) 3 representatives of existing self-insured arrangements, or their interests;

''(E) 3 representatives of associations of the type referred to in section 801(b)(1), or their interests; and

''(F) 3 representatives of multiemployer plans that are group health plans, or their interests.

''SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority through negotiated rulemaking, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any by-laws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

''(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

''(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe through negotiated rulemaking.

''(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

''(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

''(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

''(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation through negotiated rulemaking, as necessary to carry out the purposes of this part.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation through negotiated rulemaking. The applicable authority may require by regulation, through negotiated rulemaking, prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation through negotiated rulemaking such interim reports as it considers appropriate.

''(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

''(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

''(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

''SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

''(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation through negotiated rulemaking.

''SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

''(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

''(b) MANDATORY TERMINATION.—In any case in which—

''(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

''(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

''SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation through negotiated rulemaking, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

''(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

''(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

''(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

''(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

''(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

''(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

''(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

''(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation through negotiated rulemaking or required by any order of the court;

''(8) to terminate the plan (or provide for its termination accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

''(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

''(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

''(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

''(1) the sponsor and plan administrator;

''(2) each participant;

''(3) each participating employer; and

''(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

''(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

''(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

''(f) JURISDICTION OF COURT.—

''(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

''(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

''(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary through negotiated rulemaking, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

''SEC. 811. STATE ASSESSMENT AUTHORITY.

''(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Quality Care for the Uninsured Act of 1999.

''(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

''(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

''(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

''(3) such tax is otherwise nondiscriminatory; and

''(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

''SEC. 812. SPECIAL RULES FOR CHURCH PLANS.

''(a) ELECTION FOR CHURCH PLANS.—Notwithstanding section 4(b)(2), if a church, a convention or association of churches, or an organization described in section 3(33)(C)(i) maintains a church plan which is a group health plan (as defined in section 733(a)(1)), and such church, convention, association, or organization makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulation prescribe), then the provisions of this section shall apply to such plan, with respect to benefits provided under such plan consisting of medical care, as if section 4(b)(2) did not contain an exclusion for church plans. Nothing in this subsection shall be construed to render any other section of this title applicable to church plans, except to the extent that such other section is incorporated by reference in this section.

''(b) EFFECT OF ELECTION.—

''(1) PREEMPTION OF STATE INSURANCE LAWS REGULATING COVERED CHURCH PLANS.—Subject to paragraphs (2) and (3), this section shall supersede any and all State laws which regulate insurance insofar as they may now or hereafter regulate church plans to which this section applies or trusts established under such church plans.

''(2) GENERAL STATE INSURANCE REGULATION UNAFFECTED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (3), nothing in this section shall be construed to exempt or relieve any person from any provision of State law which regulates insurance.

''(B) CHURCH PLANS NOT TO BE DEEMED INSURANCE COMPANIES OR INSURERS.—Neither a church plan to which this section applies, nor any trust established under such a church plan, shall be deemed to be an insurance company or other insurer or to be engaged in the business of insurance for purposes of any State law purporting to regulate insurance companies or insurance contracts.

''(3) PREEMPTION OF CERTAIN STATE LAWS RELATING TO PREMIUM RATE REGULATION AND BENEFIT MANDATES.—The provisions of subsections (a)(2)(B) and (b) of section 805 shall apply with respect to a church plan to which this section applies in the same manner and to the same extent as such provisions apply with respect to association health plans.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) STATE LAW.—The term 'State law' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

''(B) STATE.—The term 'State' includes a State, any political subdivision thereof, or any agency or instrumentality of either, which purports to regulate, directly or indirectly, the terms and conditions of church plans covered by this section.

''(c) REQUIREMENTS FOR COVERED CHURCH PLANS.—

''(1) FIDUCIARY RULES AND EXCLUSIVE PURPOSE.—A fiduciary shall discharge his duties with respect to a church plan to which this section applies—

''(A) for the exclusive purpose of:

''(i) providing benefits to participants and their beneficiaries; and

''(ii) defraying reasonable expenses of administering the plan;

''(B) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

''(C) in accordance with the documents and instruments governing the plan.

The requirements of this paragraph shall not be treated as not satisfied solely because the plan assets are commingled with other church assets, to the extent that such plan assets are separately accounted for.

''(2) CLAIMS PROCEDURE.—In accordance with regulations of the Secretary, every church plan to which this section applies shall—

''(A) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant;

''(B) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate fiduciary of the decision denying the claim; and

''(C) provide a written statement to each participant describing the procedures established pursuant to this paragraph.

''(3) ANNUAL STATEMENTS.—In accordance with regulations of the Secretary, every church plan to which this section applies shall file with the Secretary an annual statement—

''(A) stating the names and addresses of the plan and of the church, convention, or association maintaining the plan (and its principal place of business);

''(B) certifying that it is a church plan to which this section applies and that it complies with the requirements of paragraphs (1) and (2);

''(C) identifying the States in which participants and beneficiaries under the plan

are or likely will be located during the 1-year period covered by the statement; and

''(D) containing a copy of a statement of actuarial opinion signed by a qualified actuary that the plan maintains capital, reserves, insurance, other financial arrangements, or any combination thereof adequate to enable the plan to fully meet all of its financial obligations on a timely basis.

''(4) DISCLOSURE.—At the time that the annual statement is filed by a church plan with the Secretary pursuant to paragraph (3), a copy of such statement shall be made available by the Secretary to the State insurance commissioner (or similar official) of any State. The name of each church plan and sponsoring organization filing an annual statement in compliance with paragraph (3) shall be published annually in the Federal Register.

''(c) ENFORCEMENT.—The Secretary may enforce the provisions of this section in a manner consistent with section 502, to the extent applicable with respect to actions under section 502(a)(5), and with section 3(33)(D), except that, other than for the purpose of seeking a temporary restraining order, a civil action may be brought with respect to the plan's failure to meet any requirement of this section only if the plan fails to correct its failure within the correction period described in section 3(33)(D). The other provisions of part 5 (except sections 501(a), 503, 512, 514, and 515) shall apply with respect to the enforcement and administration of this section.

''(d) DEFINITIONS AND OTHER RULES.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this section, any term used in this section which is defined in any provision of this title shall have the definition provided such term by such provision.

''(2) SEMINARY STUDENTS.—Seminary students who are enrolled in an institution of higher learning described in section 3(33)(C)(iv) and who are treated as participants under the terms of a church plan to which this section applies shall be deemed to be employees as defined in section 3(6) if the number of such students constitutes an insignificant portion of the total number of individuals who are treated as participants under the terms of the plan.

''SEC. 813. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

''(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(5) APPLICABLE AUTHORITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable authority' means, in connection with an association health plan—

''(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan; or

''(ii) if there is no State referred to in clause (i), the Secretary.

''(B) EXCEPTIONS.—

''(i) JOINT AUTHORITIES.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

''(ii) REGULATORY AUTHORITIES.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 806(j), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation through negotiated rulemaking.

''(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

''(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

''(C) in the case of an association health plan in existence on the date of the enactment of the Quality Care for the Uninsured Act of 1999, a person eligible to be a member of the sponsor or one of its member associations.

''(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

''(b) RULES OF CONSTRUCTION.—

''(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(A) in the case of a partnership, the term 'employer' (as defined in section (3)(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section (3)(6)) includes any partner in relation to the partnership; and

''(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (d)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

''(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

''(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating

in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

''(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

''(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

''(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.''.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking ''and'' at the end;

(B) in clause (ii), by inserting ''and which does not provide medical care (within the meaning of section 733(a)(2)),'' after ''arrangement,'', and by striking ''title.'' and inserting ''title, and''; and

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

''(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.''.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking ''Nothing'' and inserting ''(1) Except as provided in paragraph (2), nothing''; and

(B) by adding at the end the following new paragraph:

''(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Quality Care for the Uninsured Act of 1999 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of an association health plan under part 8.''.

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: ''An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.''.

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ''or part 8'' after ''this part''.

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2004, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Special rules for church plans.
''Sec. 813. Definitions and rules of construction.''.

SEC. 202. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting ''for any plan year of any such plan, or any fiscal year of any such other arrangement;'' after ''single employer'', and by inserting ''during such year or at any time during the preceding 1-year period'' after ''control group'';

(2) in clause (iii)—

(A) by striking ''common control shall not be based on an interest of less than 25 percent'' and inserting ''an interest of greater than 25 percent may not be required as the minimum interest necessary for common control''; and

(B) by striking ''similar to'' and inserting ''consistent and coextensive with'';

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

''(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement;''.

SEC. 203. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

''(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E);''.

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

''(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

''(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

''(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

''(II) pay any type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations prescribed by the Secretary through negotiated rulemaking), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

''(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are neither—

''(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

''(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment);

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Quality Care for the Uninsured Act of 1999 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of

the total number of present and former employees enrolled under the plan or other arrangement.

''(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed by the Secretary through negotiated rulemaking that the plan or other arrangement meets the requirements of clauses (i) and (ii).

''(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

''(ii)(I) the plan or arrangement is a multiemployer plan; and

''(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

''(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) the plan or arrangement is in effect as of the date of the enactment of the Quality Care for the Uninsured Act of 1999; or

''(ii) the employee organization or other entity sponsoring the plan or arrangement—

''(I) has been in existence for at least 3 years; or

''(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.''.

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: ''Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).''.

SEC. 204. ENFORCEMENT PROVISIONS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''SEC. 501.''; and

(2) by adding at the end the following new subsection:

''(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being an association health plan which has been certified under part 8;

''(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

''(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met;

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.''.

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

''(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

''(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

''(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

''(2) Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

''(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

''(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

''(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.''.

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) (as amended by title I) is amended by adding at the end the following new subsection:

''(c) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.''.

SEC. 205. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(c) RESPONSIBILITY OF STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8;

''(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8; or

''(C) any combination of the Secretary's authority authorized to be delegated under subparagraphs (A) and (B).

''(2) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

''(3) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular association health plan, as the State to which all authority has been delegated pursuant to such agreements in connection with such plan. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.''.

SEC. 206. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by sections 201, 204, and 205 shall take effect on January 1, 2001. The amendments made by sections 202 and 203 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title before January 1, 2001. Such regulations shall be issued through negotiated rulemaking.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 201) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on the date of the enactment of this Act, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 813(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this Act)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 813 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''association health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

(d) PROMOTING USE OF CERTAIN ADDITIONAL ASSOCIATIONS IN PROVIDING INDIVIDUAL HEALTH INSURANCE COVERAGE.—Section 2742(b)(5) of the Public Health Service Act (42 U.S.C. 300gg–42(b)(5)) is amended—

(1) by striking ''paragraph'' and inserting ''subparagraph'';

(2) by inserting ''(A)'' after ''.—''; and

(3) by adding at the end the following new subparagraph:

''(B)(i) In the case of health insurance coverage that is made available in the individual market only through one or more associations described in clause (ii), the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this subparagraph uniformly without regard to any health status-related factor of covered individuals and only if the individual is entitled, upon application and without furnishing evidence of insurability, to health insurance conversion coverage that meets and is subject to all the rules and regulations of the State in which application is made.

''(ii) An association described in this clause is an organization that meets the requirements for a bona fide organization described in subparagraphs (A), (B), (C), (E) and (F) of section 2791(d)(3) and, except in the case of an association that enrolls individual members who each pay their own individual membership dues, which provides that all members and dependents of members are eligible for coverage offered through the association regardless of any health status-related factor.''.

TITLE III—GREATER ACCESS AND CHOICE THROUGH HEALTHMARTS

SEC. 301. EXPANSION OF CONSUMER CHOICE THROUGH HEALTHMARTS.

(a) IN GENERAL.—The Public Health Service Act is amended by adding at the end the following new title:

''TITLE XXVIII—HEALTHMARTS

''SEC. 2801. DEFINITION OF HEALTHMART.

''(a) IN GENERAL.—For purposes of this title, the term 'HealthMart' means a legal entity that meets the following requirements:

''(1) ORGANIZATION.—The HealthMart is a nonprofit organization operated under the direction of a board of directors which is composed of representatives of not fewer than 2 and in equal numbers from each of the following:

''(A) Small employers.

''(B) Employees of small employers.

''(C) Health care providers, which may be physicians, other health care professionals, health care facilities, or any combination thereof.

''(D) Entities, such as insurance companies, health maintenance organizations, and licensed provider-sponsored organizations, that underwrite or administer health benefits coverage.

''(2) OFFERING HEALTH BENEFITS COVERAGE.—

''(A) IN GENERAL.—The HealthMart, in conjunction with those health insurance issuers that offer health benefits coverage through the HealthMart, makes available health benefits coverage in the manner described in subsection (b) to all small employers and eligible employees in the manner described in subsection (c)(2) at rates (including employer's and employee's share) that are established by the health insurance issuer on a policy or product specific basis and that may vary only as permissible under State law. A HealthMart is deemed to be a group health plan for purposes of applying section 702 of the Employee Retirement Income Security Act of 1974, section 2702 of this Act, and section 9802(b) of the Internal Revenue Code of 1986 (which limit variation among similarly situated individuals of required premiums for health benefits coverage on the basis of health status-related factors).

''(B) NONDISCRIMINATION IN COVERAGE OFFERED.—

''(i) IN GENERAL.—Subject to clause (ii), the HealthMart may not offer health benefits coverage to an eligible employee in a geographic area (as specified under paragraph (3)(A)) unless the same coverage is offered to all such employees in the same geographic area. Section 2711(a)(1)(B) of this Act limits denial of enrollment of certain eligible individuals under health benefits coverage in the small group market.

''(ii) CONSTRUCTION.—Nothing in this title shall be construed as requiring or permitting a health insurance issuer to provide coverage outside the service area of the issuer, as approved under State law.

''(C) NO FINANCIAL UNDERWRITING.—The HealthMart provides health benefits coverage only through contracts with health insurance issuers and does not assume insurance risk with respect to such coverage.

(D) MINIMUM COVERAGE.—By the end of the first year of its operation and thereafter, the HealthMart maintains not fewer than 10 purchasers and 100 members.

''(3) GEOGRAPHIC AREAS.—

''(A) SPECIFICATION OF GEOGRAPHIC AREAS.—The HealthMart shall specify the geographic area (or areas) in which it makes available health benefits coverage offered by health insurance issuers to small employers. Such an area shall encompass at least one entire county or equivalent area.

''(B) MULTISTATE AREAS.—In the case of a HealthMart that serves more than one State, such geographic areas may be areas that include portions of two or more contiguous States.

''(C) MULTIPLE HEALTHMARTS PERMITTED IN SINGLE GEOGRAPHIC AREA.—Nothing in this title shall be construed as preventing the establishment and operation of more than one HealthMart in a geographic area or as limiting the number of HealthMarts that may operate in any area.

''(4) PROVISION OF ADMINISTRATIVE SERVICES TO PURCHASERS.—

''(A) IN GENERAL.—The HealthMart provides administrative services for purchasers. Such services may include accounting, billing, enrollment information, and employee coverage status reports.

''(B) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a HealthMart from serving as an administrative service organization to any entity.

''(5) DISSEMINATION OF INFORMATION.—The HealthMart collects and disseminates (or arranges for the collection and dissemination of) consumer-oriented information on the scope, cost, and enrollee satisfaction of all coverage options offered through the HealthMart to its members and eligible individuals. Such information shall be defined by the HealthMart and shall be in a manner appropriate to the type of coverage offered. To the extent practicable, such information shall include information on provider performance, locations and hours of operation of providers, outcomes, and similar matters. Nothing in this section shall be construed as preventing the dissemination of such information or other information by the HealthMart or by health insurance issuers through electronic or other means.

''(6) FILING INFORMATION.—The HealthMart—

''(A) files with the applicable Federal authority information that demonstrates the HealthMart's compliance with the applicable requirements of this title; or

''(B) in accordance with rules established under section 2803(a), files with a State such information as the State may require to demonstrate such compliance.

''(b) HEALTH BENEFITS COVERAGE REQUIREMENTS.—

''(1) COMPLIANCE WITH CONSUMER PROTECTION REQUIREMENTS.—Any health benefits coverage offered through a HealthMart shall—

''(A) be underwritten by a health insurance issuer that—

''(i) is licensed (or otherwise regulated) under State law (or is a community health organization that is offering health insurance coverage pursuant to section 330B(a));

''(ii) meets all applicable State standards relating to consumer protection, subject to section 2802(b); and

''(iii) offers the coverage under a contract with the HealthMart;

''(B) subject to paragraph (2), be approved or otherwise permitted to be offered under State law; and

''(C) provide full portability of creditable coverage for individuals who remain members of the same HealthMart notwithstanding that they change the employer through which they are members in accordance with the provisions of the parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and titles XXII and XXVII of this Act, so long as both employers are purchasers in the HealthMart.

''(2) ALTERNATIVE PROCESS FOR APPROVAL OF HEALTH BENEFITS COVERAGE IN CASE OF DISCRIMINATION OR DELAY.—

''(A) IN GENERAL.—The requirement of paragraph (1)(B) shall not apply to a policy or product of health benefits coverage offered in a State if the health insurance issuer seeking to offer such policy or product files an application to waive such requirement with the applicable Federal authority, and the authority determines, based on the application and other evidence presented to the authority, that—

''(i) either (or both) of the grounds described in subparagraph (B) for approval of the application has been met; and

''(ii) the coverage meets the applicable State standards (other than those that have been preempted under section 2802).

''(B) GROUNDS.—The grounds described in this subparagraph with respect to a policy or product of health benefits coverage are as follows:

''(i) FAILURE TO ACT ON POLICY, PRODUCT, OR RATE APPLICATION ON A TIMELY BASIS.—The State has failed to complete action on the policy or product (or rates for the policy or product) within 90 days of the date of the State's receipt of a substantially complete application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

''(ii) DENIAL OF APPLICATION BASED ON DISCRIMINATORY TREATMENT.—The State has denied such an application and—

''(I) the standards or review process imposed by the State as a condition of approval of the policy or product imposes either any material requirements, procedures, or standards to such policy or product that are not generally applicable to other policies and products offered or any requirements that are preempted under section 2802; or

''(II) the State requires the issuer, as a condition of approval of the policy or product, to offer any policy or product other than such policy or product.

''(C) ENFORCEMENT.—In the case of a waiver granted under subparagraph (A) to an issuer with respect to a State, the Secretary may enter into an agreement with the State under which the State agrees to provide for monitoring and enforcement activities with respect to compliance of such an issuer and

its health insurance coverage with the applicable State standards described in subparagraph (A)(ii). Such monitoring and enforcement shall be conducted by the State in the same manner as the State enforces such standards with respect to other health insurance issuers and plans, without discrimination based on the type of issuer to which the standards apply. Such an agreement shall specify or establish mechanisms by which compliance activities are undertaken, while not lengthening the time required to review and process applications for waivers under subparagraph (A).

''(3) EXAMPLES OF TYPES OF COVERAGE.—The health benefits coverage made available through a HealthMart may include, but is not limited to, any of the following if it meets the other applicable requirements of this title:

''(A) Coverage through a health maintenance organization.

''(B) Coverage in connection with a preferred provider organization.

''(C) Coverage in connection with a licensed provider-sponsored organization.

''(D) Indemnity coverage through an insurance company.

''(E) Coverage offered in connection with a contribution into a medical savings account or flexible spending account.

''(F) Coverage that includes a point-of-service option.

''(G) Coverage offered by a community health organization (as defined in section 330B(e)).

''(H) Any combination of such types of coverage.

''(4) WELLNESS BONUSES FOR HEALTH PROMOTION.—Nothing in this title shall be construed as precluding a health insurance issuer offering health benefits coverage through a HealthMart from establishing premium discounts or rebates for members or from modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention so long as such programs are agreed to in advance by the HealthMart and comply with all other provisions of this title and do not discriminate among similarly situated members.

''(c) PURCHASERS; MEMBERS; HEALTH INSURANCE ISSUERS.—

''(1) PURCHASERS.—

''(A) IN GENERAL.—Subject to the provisions of this title, a HealthMart shall permit any small employer to contract with the HealthMart for the purchase of health benefits coverage for its employees and dependents of those employees and may not vary conditions of eligibility (including premium rates and membership fees) of a small employer to be a purchaser.

''(B) ROLE OF ASSOCIATIONS, BROKERS, AND LICENSED HEALTH INSURANCE AGENTS.—Nothing in this section shall be construed as preventing an association, broker, licensed health insurance agent, or other entity from assisting or representing a HealthMart or small employers from entering into appropriate arrangements to carry out this title.

''(C) PERIOD OF CONTRACT.—The HealthMart may not require a contract under subparagraph (A) between a HealthMart and a purchaser to be effective for a period of longer than 12 months. The previous sentence shall not be construed as preventing such a contract from being extended for additional 12-month periods or preventing the purchaser from voluntarily electing a contract period of longer than 12 months.

''(D) EXCLUSIVE NATURE OF CONTRACT.—Such a contract shall provide that the purchaser agrees not to obtain or sponsor health benefits coverage, on behalf of any eligible employees (and their dependents), other than through the HealthMart. The previous sentence shall not apply to an eligible individual who resides in an area for which no coverage is offered by any health insurance issuer through the HealthMart.

''(2) MEMBERS.—

''(A) IN GENERAL.—Under rules established to carry out this title, with respect to a small employer that has a purchaser contract with a HealthMart, individuals who are employees of the employer may enroll for health benefits coverage (including coverage for dependents of such enrolling employees) offered by a health insurance issuer through the HealthMart.

''(B) NONDISCRIMINATION IN ENROLLMENT.—A HealthMart may not deny enrollment as a member to an individual who is an employee (or dependent of such an employee) eligible to be so enrolled based on health status-related factors, except as may be permitted consistent with section 2742(b).

''(C) ANNUAL OPEN ENROLLMENT PERIOD.—In the case of members enrolled in health benefits coverage offered by a health insurance issuer through a HealthMart, subject to subparagraph (D), the HealthMart shall provide for an annual open enrollment period of 30 days during which such members may change the coverage option in which the members are enrolled.

''(D) RULES OF ELIGIBILITY.—Nothing in this paragraph shall preclude a HealthMart from establishing rules of employee eligibility for enrollment and reenrollment of members during the annual open enrollment period under subparagraph (C). Such rules shall be applied consistently to all purchasers and members within the HealthMart and shall not be based in any manner on health status-related factors and may not conflict with sections 2701 and 2702 of this Act.

''(3) HEALTH INSURANCE ISSUERS.—

''(A) PREMIUM COLLECTION.—The contract between a HealthMart and a health insurance issuer shall provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the HealthMart, for the payment of the premiums collected by the HealthMart (or the issuer) for such coverage (less a pre-determined administrative charge negotiated by the HealthMart and the issuer) to the issuer.

''(B) SCOPE OF SERVICE AREA.—Nothing in this title shall be construed as requiring the service area of a health insurance issuer with respect to health insurance coverage to cover the entire geographic area served by a HealthMart.

''(C) AVAILABILITY OF COVERAGE OPTIONS.—A HealthMart shall enter into contracts with one or more health insurance issuers in a manner that assures that at least 2 health insurance coverage options are made available in the geographic area specified under subsection (a)(3)(A).

''(d) PREVENTION OF CONFLICTS OF INTEREST.—

''(1) FOR BOARDS OF DIRECTORS.—A member of a board of directors of a HealthMart may not serve as an employee or paid consultant to the HealthMart, but may receive reasonable reimbursement for travel expenses for purposes of attending meetings of the board or committees thereof.

''(2) FOR BOARDS OF DIRECTORS OR EMPLOYEES.—An individual is not eligible to serve in a paid or unpaid capacity on the board of directors of a HealthMart or as an employee of the HealthMart, if the individual is employed by, represents in any capacity, owns, or controls any ownership interest in a organization from whom the HealthMart receives contributions, grants, or other funds not connected with a contract for coverage through the HealthMart.

''(3) EMPLOYMENT AND EMPLOYEE REPRESENTATIVES.—

''(A) IN GENERAL.—An individual who is serving on a board of directors of a HealthMart as a representative described in subparagraph (A) or (B) of section 2801(a)(1) shall not be employed by or affiliated with a health insurance issuer or be licensed as or employed by or affiliated with a health care provider.

''(B) CONSTRUCTION.—For purposes of subparagraph (A), the term ''affiliated'' does not include membership in a health benefits plan or the obtaining of health benefits coverage offered by a health insurance issuer.

''(e) CONSTRUCTION.—

''(1) NETWORK OF AFFILIATED HEALTHMARTS.—Nothing in this section shall be construed as preventing one or more HealthMarts serving different areas (whether or not contiguous) from providing for some or all of the following (through a single administrative organization or otherwise):

''(A) Coordinating the offering of the same or similar health benefits coverage in different areas served by the different HealthMarts.

''(B) Providing for crediting of deductibles and other cost-sharing for individuals who are provided health benefits coverage through the HealthMarts (or affiliated HealthMarts) after—

''(i) a change of employers through which the coverage is provided; or

''(ii) a change in place of employment to an area not served by the previous HealthMart.

''(2) PERMITTING HEALTHMARTS TO ADJUST DISTRIBUTIONS AMONG ISSUERS TO REFLECT RELATIVE RISK OF ENROLLEES.—Nothing in this section shall be construed as precluding a HealthMart from providing for adjustments in amounts distributed among the health insurance issuers offering health benefits coverage through the HealthMart based on factors such as the relative health care risk of members enrolled under the coverage offered by the different issuers.

''(3) APPLICATION OF UNIFORM MINIMUM PARTICIPATION AND CONTRIBUTION RULES.—Nothing in this section shall be construed as precluding a HealthMart from establishing minimum participation and contribution rules (described in section 2711(e)(1)) for small employers that apply to become purchasers in the HealthMart, so long as such rules are applied uniformly for all health insurance issuers.

''SEC. 2802. APPLICATION OF CERTAIN LAWS AND REQUIREMENTS.

''(a) AUTHORITY OF STATES.—Nothing in this section shall be construed as preempting State laws relating to the following:

''(1) The regulation of underwriters of health coverage, including licensure and solvency requirements.

''(2) The application of premium taxes and required payments for guaranty funds or for contributions to high-risk pools.

''(3) The application of fair marketing requirements and other consumer protections (other than those specifically relating to an item described in subsection (b)).

''(4) The application of requirements relating to the adjustment of rates for health insurance coverage.

''(b) TREATMENT OF BENEFIT AND GROUPING REQUIREMENTS.—State laws insofar as they relate to any of the following are superseded and shall not apply to health benefits coverage made available through a HealthMart:

''(1) Benefit requirements for health benefits coverage offered through a HealthMart, including (but not limited to) requirements relating to coverage of specific providers, specific services or conditions, or the amount, duration, or scope of benefits, but

not including requirements to the extent required to implement title XXVII or other Federal law and to the extent the requirement prohibits an exclusion of a specific disease from such coverage.

''(2) Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for such coverage to the extent such requirements impede the establishment and operation of HealthMarts pursuant to this title.

''(3) Any other requirements (including limitations on compensation arrangements) that, directly or indirectly, preclude (or have the effect of precluding) the offering of such coverage through a HealthMart, if the HealthMart meets the requirements of this title.

Any State law or regulation relating to the composition or organization of a HealthMart is preempted to the extent the law or regulation is inconsistent with the provisions of this title.

''(c) APPLICATION OF ERISA FIDUCIARY AND DISCLOSURE REQUIREMENTS.—The board of directors of a HealthMart is deemed to be a plan administrator of an employee welfare benefit plan which is a group health plan for purposes of applying parts 1 and 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and those provisions of part 5 of such subtitle which are applicable to enforcement of such parts 1 and 4, and the HealthMart shall be treated as such a plan and the enrollees shall be treated as participants and beneficiaries for purposes of applying such provisions pursuant to this subsection.

''(d) APPLICATION OF ERISA RENEWABILITY PROTECTION.—A HealthMart is deemed to be a group health plan that is a multiple employer welfare arrangement for purposes of applying section 703 of the Employee Retirement Income Security Act of 1974.

''(e) APPLICATION OF RULES FOR NETWORK PLANS AND FINANCIAL CAPACITY.—The provisions of subsections (c) and (d) of section 2711 apply to health benefits coverage offered by a health insurance issuer through a HealthMart.

''(f) CONSTRUCTION RELATING TO OFFERING REQUIREMENT.—Nothing in section 2711(a) of this Act or 703 of the Employee Retirement Income Security Act of 1974 shall be construed as permitting the offering outside the HealthMart of health benefits coverage that is only made available through a HealthMart under this section because of the application of subsection (b).

''(g) APPLICATION TO GUARANTEED RENEWABILITY REQUIREMENTS IN CASE OF DISCONTINUATION OF AN ISSUER.—For purposes of applying section 2712 in the case of health insurance coverage offered by a health insurance issuer through a HealthMart, if the contract between the HealthMart and the issuer is terminated and the HealthMart continues to make available any health insurance coverage after the date of such termination, the following rules apply:

''(1) RENEWABILITY.—The HealthMart shall fulfill the obligation under such section of the issuer renewing and continuing in force coverage by offering purchasers (and members and their dependents) all available health benefits coverage that would otherwise be available to similarly-situated purchasers and members from the remaining participating health insurance issuers in the same manner as would be required of issuers under section 2712(c).

''(2) APPLICATION OF ASSOCIATION RULES.—The HealthMart shall be considered an association for purposes of applying section 2712(e).

''(h) CONSTRUCTION IN RELATION TO CERTAIN OTHER LAWS.—Nothing in this title shall be construed as modifying or affecting the applicability to HealthMarts or health benefits coverage offered by a health insurance issuer through a HealthMart of parts 6 and 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 or titles XXII and XXVII of this Act.

''SEC. 2803. ADMINISTRATION.

''(a) IN GENERAL.—The applicable Federal authority shall administer this title through the division established under subsection (b) and is authorized to issue such regulations as may be required to carry out this title. Such regulations shall be subject to Congressional review under the provisions of chapter 8 of title 5, United States Code. The applicable Federal authority shall incorporate the process of 'deemed file and use' with respect to the information filed under section 2801(a)(6)(A) and shall determine whether information filed by a HealthMart demonstrates compliance with the applicable requirements of this title. Such authority shall exercise its authority under this title in a manner that fosters and promotes the development of HealthMarts in order to improve access to health care coverage and services.

''(b) ADMINISTRATION THROUGH HEALTH CARE MARKETPLACE DIVISION.—

''(1) IN GENERAL.—The applicable Federal authority shall carry out its duties under this title through a separate Health Care Marketplace Division, the sole duty of which (including the staff of which) shall be to administer this title.

''(2) ADDITIONAL DUTIES.—In addition to other responsibilities provided under this title, such Division is responsible for—

''(A) oversight of the operations of HealthMarts under this title; and

''(B) the periodic submittal to Congress of reports on the performance of HealthMarts under this title under subsection (c).

''(c) PERIODIC REPORTS.—The applicable Federal authority shall submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the applicable Federal authority to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. Such authority may provide for the production of such reports through one or more contracts with appropriate private entities.

''SEC. 2804. DEFINITIONS.

''For purposes of this title:

''(1) APPLICABLE FEDERAL AUTHORITY.—The term 'applicable Federal authority' means the Secretary of Health and Human Services.

''(2) ELIGIBLE EMPLOYEE OR INDIVIDUAL.—The term 'eligible' means, with respect to an employee or other individual and a HealthMart, an employee or individual who is eligible under section 2801(c)(2) to enroll or be enrolled in health benefits coverage offered through the HealthMart.

''(3) EMPLOYER; EMPLOYEE; DEPENDENT.—Except as the applicable Federal authority may otherwise provide, the terms 'employer', 'employee', and 'dependent', as applied to health insurance coverage offered by a health insurance issuer licensed (or otherwise regulated) in a State, shall have the meanings applied to such terms with respect to such coverage under the laws of the State relating to such coverage and such an issuer.

''(4) HEALTH BENEFITS COVERAGE.—The term 'health benefits coverage' has the meaning given the term group health insurance coverage in section 2791(b)(4).

''(5) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2) and includes a community health organization that is offering coverage pursuant to section 330B(a).

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning given such term in section 2791(d)(9).

''(7) HEALTHMART.—The term 'HealthMart' is defined in section 2801(a).

''(8) MEMBER.—The term 'member' means, with respect to a HealthMart, an individual enrolled for health benefits coverage through the HealthMart under section 2801(c)(2).

''(9) PURCHASER.—The term 'purchaser' means, with respect to a HealthMart, a small employer that has contracted under section 2801(c)(1)(A) with the HealthMart for the purchase of health benefits coverage.

''(10) SMALL EMPLOYER.—The term 'small employer' has the meaning given such term for purposes of title XXVII.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2000. The Secretary of Health and Human Services shall first issue all regulations necessary to carry out such amendment before such date.

TITLE IV—COMMUNITY HEALTH ORGANIZATIONS

SEC. 401. PROMOTION OF PROVISION OF INSURANCE BY COMMUNITY HEALTH ORGANIZATIONS.

(a) WAIVER OF STATE LICENSURE REQUIREMENT FOR COMMUNITY HEALTH ORGANIZATIONS IN CERTAIN CASES.—Subpart I of part D of title III of the Public Health Service Act is amended by adding at the end the following new section:

''WAIVER OF STATE LICENSURE REQUIREMENT FOR COMMUNITY HEALTH ORGANIZATIONS IN CERTAIN CASES

''SEC. 330D. (a) WAIVER AUTHORIZED.—

''(1) IN GENERAL.—A community health organization may offer health insurance coverage in a State notwithstanding that it is not licensed in such a State to offer such coverage if—

''(A) the organization files an application for waiver of the licensure requirement with the Secretary of Health and Human Services (in this section referred to as the 'Secretary') by not later than November 1, 2005; and

''(B) the Secretary determines, based on the application and other evidence presented to the Secretary, that any of the grounds for approval of the application described in subparagraph (A), (B), or (C) of paragraph (2) has been met.

''(2) GROUNDS FOR APPROVAL OF WAIVER.—

''(A) FAILURE TO ACT ON LICENSURE APPLICATION ON A TIMELY BASIS.—The ground for approval of such a waiver application described in this subparagraph is that the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of a substantially complete application. No period before the date of the enactment of this section shall be included in determining such 90-day period.

''(B) DENIAL OF APPLICATION BASED ON DISCRIMINATORY TREATMENT.—The ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application and the standards or review process imposed by the State as a condition of approval of the license or as the basis for such denial by the State imposes any material requirements, procedures, or standards (other than solvency requirements) to such organizations that are not generally applicable to other entities engaged in a substantially similar business.

''(C) DENIAL OF APPLICATION BASED ON APPLICATION OF SOLVENCY REQUIREMENTS.—With respect to waiver applications filed on or after the date of publication of solvency standards established by the Secretary under

subsection (d), the ground for approval of such a waiver application described in this subparagraph is that the State has denied such a licensing application based (in whole or in part) on the organization's failure to meet applicable State solvency requirements and such requirements are not the same as the solvency standards established by the Secretary. For purposes of this subparagraph, the term solvency requirements means requirements relating to solvency and other matters covered under the standards established by the Secretary under subsection (d).

''(3) TREATMENT OF WAIVER.—In the case of a waiver granted under this subsection for a community health organization with respect to a State—

''(A) LIMITATION TO STATE.—The waiver shall be effective only with respect to that State and does not apply to any other State.

''(B) LIMITATION TO 36-MONTH PERIOD.—The waiver shall be effective only for a 36-month period but may be renewed for up to 36 additional months if the Secretary determines that such an extension is appropriate.

''(C) CONDITIONED ON COMPLIANCE WITH CONSUMER PROTECTION AND QUALITY STANDARDS.—The continuation of the waiver is conditioned upon the organization's compliance with the requirements described in paragraph (5).

''(D) PREEMPTION OF STATE LAW.—Any provisions of law of that State which relate to the licensing of the organization and which prohibit the organization from providing health insurance coverage shall be superseded.

''(4) PROMPT ACTION ON APPLICATION.—The Secretary shall grant or deny such a waiver application within 60 days after the date the Secretary determines that a substantially complete waiver application has been filed. Nothing in this section shall be construed as preventing an organization which has had such a waiver application denied from submitting a subsequent waiver application.

''(5) APPLICATION AND ENFORCEMENT OF STATE CONSUMER PROTECTION AND QUALITY STANDARDS.—A waiver granted under this subsection to an organization with respect to licensing under State law is conditioned upon the organization's compliance with all consumer protection and quality standards insofar as such standards—

''(A) would apply in the State to the community health organization if it were licensed as an entity offering health insurance coverage under State law; and

''(B) are generally applicable to other risk-bearing managed care organizations and plans in the State.

''(6) REPORT.—By not later than December 31, 2004, the Secretary 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 regarding whether the waiver process under this subsection should be continued after December 31, 2005.

''(b) ASSUMPTION OF FULL FINANCIAL RISK.—To qualify for a waiver under subsection (a), the community health organization shall assume full financial risk on a prospective basis for the provision of covered health care services, except that the organization—

''(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds such aggregate level as the Secretary specifies from time to time;

''(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization;

''(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 105 percent of its income for such fiscal year; and

''(4) may make arrangements with physicians or other health care professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of health services by the physicians or other health professionals or through the institutions.

''(c) CERTIFICATION OF PROVISION AGAINST RISK OF INSOLVENCY FOR UNLICENSED CHOS.—

''(1) IN GENERAL.—Each community health organization that is not licensed by a State and for which a waiver application has been approved under subsection (a)(1), shall meet standards established by the Secretary under subsection (d) relating to the financial solvency and capital adequacy of the organization.

''(2) CERTIFICATION PROCESS FOR SOLVENCY STANDARDS FOR CHOS.—The Secretary shall establish a process for the receipt and approval of applications of a community health organization described in paragraph (1) for certification (and periodic recertification) of the organization as meeting such solvency standards. Under such process, the Secretary shall act upon such a certification application not later than 60 days after the date the application has been received.

''(d) ESTABLISHMENT OF SOLVENCY STANDARDS FOR COMMUNITY HEALTH ORGANIZATIONS.—

''(1) IN GENERAL.—The Secretary shall establish, on an expedited basis and by rule pursuant to section 553 of title 5, United States Code and through the Health Resources and Services Administration, standards described in subsection (c)(1) (relating to financial solvency and capital adequacy) that entities must meet to obtain a waiver under subsection (a)(2)(C). In establishing such standards, the Secretary shall consult with interested organizations, including the National Association of Insurance Commissioners, the Academy of Actuaries, and organizations representing Federally qualified health centers.

''(2) FACTORS TO CONSIDER FOR SOLVENCY STANDARDS.—In establishing solvency standards for community health organizations under paragraph (1), the Secretary shall take into account—

''(A) the delivery system assets of such an organization and ability of such an organization to provide services to enrollees;

''(B) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care; and

''(C) any standards developed by the National Association of Insurance Commissioners specifically for risk-based health care delivery organizations.

''(3) ENROLLEE PROTECTION AGAINST INSOLVENCY.—Such standards shall include provisions to prevent enrollees from being held liable to any person or entity for the organization's debts in the event of the organization's insolvency.

''(4) DEADLINE.—Such standards shall be promulgated in a manner so they are first effective by not later than April 1, 2000.

''(e) DEFINITIONS.—In this section:

''(1) COMMUNITY HEALTH ORGANIZATION.—The term 'community health organization' means an organization that is a Federally-qualified health center or is controlled by one or more Federally-qualified health centers.

''(2) FEDERALLY-QUALIFIED HEALTH CENTER.—The term 'Federally-qualified health center' has the meaning given such term in section 1905(l)(2)(B) of the Social Security Act.

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 2791(b)(1).

''(4) CONTROL.—The term 'control' means the possession, whether direct or indirect, of the power to direct or cause the direction of the management and policies of the organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.''.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 323, the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL), the gentleman from Pennsylvania (Mr. GOODLING), the gentleman from Missouri (Mr. CLAY), the gentleman from Texas (Mr. ARCHER), and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. Bliley).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this bill and all bills considered pursuant to this resolution.

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

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise today to support H.R. 2990, the Quality Care for the Uninsured Act. I appreciate the hard work of my colleagues, the gentleman from Missouri (Mr. TALENT) and the gentleman from Arizona (Mr. SHADEGG) on this bill. I urge all of my colleagues to support this important measure.

This bill will have a greater impact on Americans struggling to access basic health coverage than anything else we do here this week. That is because this bill is designed to address the real crisis in health care in this country, the crisis of the rising numbers of uninsured.

The problem is bad and it is getting worse. The headline in the Washington Post this past Monday highlighted the true health care crisis in America today, ''one million more in the U.S. lacked health care coverage in study of 1998.'' This is at a time when we are virtually at full employment.

The Census Bureau tells us the number of uninsured increased to over 44 million in 1998, as this chart here demonstrates. Over the last decade, we have had a long period of economic growth. Household incomes are up and everyone is trading stocks, but as this chart shows the number of uninsured grow every year.

Who are the uninsured? The majority of the 44 million uninsured come from

hard-working families. My committee held a hearing back in June to look at the problems with access to health coverage. We heard compelling testimony from Mary Horsley, a wife and mother from Cape Charles, Virginia. The Horsley family is uninsured. Mrs. Horsley told the committee about her family's struggles with illness. They cannot afford health insurance because they make too much money to qualify for Medicaid but not enough to buy insurance that will cover her husband's preexisting medical condition.

Like millions of other Americans, the Horsleys are in what I like to call the coverage gap. This chart shows us that low income workers tend to fall in this coverage gap.

Now, there are two ways this gap can be filled. One can try and fill it by expanding public programs like medicaid. Historically, this is how we have tried to address the problems of the lower-income uninsured. Using this approach, however, places millions of people in a one-size-fits-all, big government program.

There is a better way, however. We can begin to address this problem by making sure low-income workers, who do not want to go on Medicaid, have access to private health coverage like a majority of Americans have today.

This is what H.R. 2990 will do. It will expand access to private health insurance by providing tax incentives and regulatory relief.

A key feature of this bill, which I am proud to have offered, is the proposal to create HealthMarts. HealthMarts are private, voluntary health care supermarkets; employers who elect to join a HealthMart. But just like in our own health plan, the Federal Employee Health Benefit Plan, FEHBP, individual employees would make the choice of coverage from the options available in the HealthMart, not the employer.

These charts show us how HealthMarts would provide employees with new coverage options.

How can HealthMarts help the uninsured? First it would help with costs. The General Accounting Office tells us that in my home State alone, Virginia, mandated benefit laws account for 12 percent of premium costs. HealthMarts would be free to offer plans that did not include these costly mandates. Further, cost savings would be achieved by competition in the HealthMart, because the consumer can choose the plan he wants or she wants and is able to switch plans on an annual basis.

Insurers would compete for this business. This competition is surely lacking in health coverage today. There is one system where this type of choice in competition is alive and well, and it is our plan, the Federal Employee Health Benefit Plan. My colleagues and I enjoy a great treasure in our Federal health program. We have multiple plans to choose from. We are all pooled together to spread the cost of caring for the sick with the healthy and, most important, once a year we all get the chance to fire our health plan if we do not like it and hire a new one.

This choice drives quality in the health care system. This choice drives affordability in the health care system. This is a choice all Americans should have. Giving consumers the freedom to make the choice is why we are here today. We will never get to the root of the problems faced by the uninsured or the dissatisfaction some have with their current coverage until we create a true marketplace for health care.

Today, patients lack real control. They are riding shotgun in a system driven by employers and insurance companies. H.R. 2990 seeks to change this by putting patients in the driver's seat where they belong. The answers to the problems we are trying to address today do not lie in more costly mandates on health insurers.

Mr. DINGELL. Mr. Speaker, I yield myself 5 minutes.

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

Mr. DINGELL. Mr. Speaker, let us put this in the simplest terms. Health care is paid for with insurance premiums and deductibles. The payments buy a promise that health care is there when it is needed.

Is that true? Probably not. When one has a problem, one visits their doctor. Someone might have a numb feeling in their leg or a lesion or migraine headaches. The doctor examines them and decides they need a procedure or medication or a diagnostic test.

So what happens? The doctor talks to the administrative office in the HMO. They check with the insurance company. The insurance bureaucrat at the other end of the 800 telephone number says, no, we cannot pay for that procedure or treatment or medication. So the doctor gets on the phone, argues with the bureaucrat. The HMO still says no.

What does one do then? That is when Norwood-Dingell comes in. We give a person the right to see a qualified specialist. We give a person the ability to get into a clinical trial. We say women and children can see obstetricians and pediatricians or cancer specialists are available to cancer patients. We say a person can go to the nearest emergency room without prior approval or extra charges, and we give a person a fair chance to appeal an unfair or biased decision to get the treatment that is needed.

□ 1415

In short, Norwood-Dingell makes the health insurance work.

We are going to hear a lot about lawyers and employers, but let us keep a few things in mind.

If a doctor makes a wrong medical decision, that doctor can be and is held accountable. In a word, he can be sued. But if an insurance company makes a medical decision by denying someone treatment, that denial causes injury or death, the insurance company gets off scot free. Only the insurance companies and foreign diplomats escape liability. They are the only ones who get a complete shelter against wrongdoing.

A lot of people want us to believe that this debate is all about lawsuits, but that fails the simple test of common sense. When someone is sick, do they want to go to court? Do they want to see a lawyer? Do they want to have litigation? Of course not. What they want to do is to see a doctor, not a judge; and they want to get their pain and their suffering alleviated.

We are going to hear a lot of talk about helping the uninsured today. My good friend and colleague, the gentleman from Virginia (Mr. BLILEY) who I dearly love, spent a lot of time on it; but we could have written bipartisan legislation to help the uninsured. No effort in that direction was made, and that is not the bill on which we will vote today. This bill and the question before this body is about giving people health insurance. The bill that we have before us at this moment is simply about giving Members of Congress political insurance against those who know they are not being properly treated by HMOs.

Let us look at the facts. Who are the 46 million Americans without health insurance? Well, here they are. Half of them work in low-wage jobs. Many of them are people moving from welfare to work who are no longer covered by Medicaid. One-quarter of the uninsured are children. According to the General Accounting Office one-third of the uninsured pay no income taxes whatsoever. Many others pay far less than will do them any good on a tax credit. What we have to talk about here is getting the money to the people who have the need. What is needed here is a tax credit which is refundable in character. That is not before this body at this time, and the practical result of that is then that the uninsured are not going to be benefited.

The bill that we have before us is a bill which helps the wealthy and which helps the healthy.

Now let us talk about the people who are uninsured. The health insurance industry pointed out three factors that are pricing employers out of the market: modern medical technologies, rising cost of prescription medication, and longer lives for old people who need more care. This bill does nothing, nothing about any of those questions.

If this is to be a serious exercise in helping the uninsured, and I have many friends on the other side of the aisle who are sincere in that, we could have found a common ground. We have legislation around here which will really cover every American, and I think that is the way in which we should proceed. This bill does nothing except help the insurance companies and to help the well to do and to help the healthy. It creates a long downward spiral of adverse selection which is going to reduce

the number of people who are really eligible to get insurance coverage and which is going to raise the costs by leaving those people who have the least ability to pay dependent upon those services.

It is interesting to note that only one of the bills we are going to consider in this cycle of legislation was written before yesterday. Only one has been examined in broad daylight. Only one is bipartisan and has a chance of being signed into law. Only one has been endorsed by more than 300 organizations representing doctors, teachers, consumers, union members, specialists, women, doctors, and others. Only one has a chance of making life easier for the people who desperately have need.

That is Norwood-Dingell, and I would commend my colleagues to the fact that if they really want to do something about people, do not mess around with this nonsensical piece of legislation. Vote for Norwood-Dingell to get what we want.

What is this debate about today?

Let me put it in the simplest terms.

You pay for your health care with insurance premiums and deductibles. Those payments buy a promise that you can get health care when you need it.

When you think you have a problem, you visit your doctor.

You might have a numb feeling in your arm or leg, or a lesion, or migraine headaches. Your doctor examines you, and decides you need a procedure, or medication, or a diagnostic test.

So your doctor talks to the administrative staff in the office, and they check with your insurance company. The insurance bureaucrat at the other end of the 800 telephone number says, no, we won't pay for that procedure or treatment or medication. So the doctor gets on the phone and argues with the bureaucrat, and still they say no.

So what do you do then? That's what the Norwood-Dingell bill is about. We give you the right to see a qualified specialist. We give you the ability to get into a clinical trial. We say women and children can see obstetricians and pediatricians, or cancer patients oncologists. We say you can go to the nearest emergency room without prior approval or extra charges. And we give you a fair chance to appeal the decision and get the treatment you need.

In short, we make your insurance work.

We're going to hear a lot of talk about lawyers and employers in the next two days. But keep a few things in mind.

If a doctor makes the wrong medical decision, a doctor can be—and is—held accountable, the doctor can be sued—

But if an insurance company makes a medical decision by denying you treatment, and that denial causes injury or death, the insurance company gets off free. Only insurance companies and HMO's get this protection against accountability for their wrong doing.

A lot of people want you to believe this debate is all about lawsuits. But that claim fails the simple test of common sense. If you're sick, do you want to go to court—or do you want to get better? When you need treatment for an illness, do you want to see a doctor or a judge?

We're also going to hear a lot of talk about helping the uninsured today.

We could have written bipartisan legislation to help the uninsured. But that's not the bill we'll consider and vote on today. That bill isn't about giving people health insurance. That bill is designed to give Members of Congress political insurance.

Let's look at the facts. Who are the 46 million Americans without health insurance?

Half of them work in low wage jobs. Many of them are people moving from welfare to work who are no longer covered by Medicaid.

One quarter of the uninsured are children. According to the General Accounting Office, one third of the uninsured pay no income taxes. Are people who neither pay nor file taxes really going to be helped by tax deductions?

Why are these people uninsured? A spokesman for the health insurance industry pointed to three factors that are pricing employers out of the market: new medical technologies, the rising cost of prescription medication, and longer lives for older people who need more care.

The access bill H.R. 2990 does nothing to address any of those issues.

If this were a serious exercise in helping the uninsured—and I have many friends on the other side of the aisle who are sincere in that desire—we could have found common ground. We could have put together a package to help children, small businesses, and the self-employed. We could have targeted those at lower income levels, instead of showering tax deductions on the wealthy.

We could have, but we didn't. Instead we have before us a bill that helps the healthy and wealthy. It actually reduces existing consumer protections for those who today have insurance. And it dynamites an almost $50 billion hole in the deficit.

Only one of the bills we'll consider in the next two days was written before yesterday. Only one has been examined in broad daylight. Only one is bipartisan and has a chance of being signed into law. Only one has been endorsed by more than 300 organizations representing doctors, teachers, consumers, union members, specialists, women, and others. Only one has a chance of making life a little easier for the people who buy health insurance in the hope that it will pay for care when it's needed.

That bill is the one offered by my friends Mr. NORWOOD, Mr. GANSKE, Mr. BERRY, and myself. Support that bill, and reject all other bills and substitutes.

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent to control the remainder of the time in place of the gentleman from Virginia (Mr. BLILEY).

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Florida?

There was no objection.

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

Mr. Speaker, I rise in support of the Quality Care for the Uninsured Act. This bill is designed to increase access to care for millions of Americans who currently lack health coverage. It includes a proposal that I crafted to expand the ability of community health centers to provide quality care to individuals in need. Community health centers are not-for-profit health care providers. By law they are established in America's medically underserved areas and must make their sources accessible to everyone regardless of individuals' ability to pay.

H.R. 2990 would expand the ability of community health centers to private affordable health care services to individuals who lack health coverage. It would authorize community health organizations to form networks of providers, to increase access to care and medically underserved areas. These networks will expand health options in communities that currently lack the necessary infrastructure to fully support the comprehensive delivery of health care services.

Specifically, Mr. Speaker, the bill will authorize a waiver of State financial requirements that may prevent managed care organizations controlled by community health centers from fully participating in the private health care market. By allowing the establishment of alternative Federal solvency standards for community health organizations, this proposal recognizes the unique circumstances facing community health centers and the communities that they serve. Community health organizations will help expand the patient base of health centers while providing a cost-effective coverage option for the small employers. These networks will be operated by local providers whose primary mission is to meet the health care needs of the communities they serve. These networks will enhance competition among commercial managed care plans because they will deliver care that is responsive to local needs. Competition will drive quality up while driving costs down.

Mr. Speaker, I was proud to cosponsor H.R. 2990, and I strongly urge Members to support its passage. The Census Bureau has underscored the urgent need for this legislation by announcing that the number of uninsured Americans rose to over 44 million last year. This legislation builds on the efforts of previous Congresses to expand health care to the uninsured.

During the 103rd Congress I joined then Congressman Roy Rowland in leading a bipartisan coalition in support of consensus health reforms. Our targeted plan included significant measures to expand health care access to the uninsured. Among its key provisions, our plan would expand the role of community centers in providing access to care in medically underserved areas. We also proposed insurance reforms to help individuals with preexisting conditions obtain coverage and to help workers keep their insurance when they changed jobs. These insurance provisions were ultimately, I underline ultimately, enacted into law during the 104th Congress, but those individuals had to wait 2 years for assistance.

Mr. Speaker, we should not repeat that mistake today. H.R. 2990 represents an important opportunity to

expand coverage to the uninsured. It is not perfect, it can go further, it can consider some of the items that the gentleman from Michigan (Mr. DINGELL) mentioned; but it would be an important opportunity to at least expand coverage, make available coverage to the uninsured. We should not make 44 million Americans wait any longer for access to the health care they need. I challenge those who support patients' rights to put people ahead of politics and join us in supporting passage of this critical measure.

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

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I thank the ranking member for yielding this time to me, and I just want to bring to light some new information. The Joint Committee on Taxation has given us some estimates on what this wonderful access bill will do.

It will provide access perhaps to 160,000 families; that is all. At a cost of $48 billion, and try this with your shoes and socks on, that is $300,000 per family or $30,000 a year to give 160,000 families, 320,000 people, coverage. That is all it does. The benefits go to those people who are currently insured, which means the Republicans are squandering $300,000 per family for 160,000 families who are uninsured, and my colleagues want to talk about wasting money? Trust the Republicans to do it.

Mr. Speaker, the Joint Tax Committee has estimated how many people the Access bill would help.

The answer: almost no one.

The tax deduction for individuals paying for more than 50% of the cost of their health insurance will cost $31.2 billion over 10 years and result in 200,000 uninsured people getting insurance.

That's $156,000 per new insured person—$15,600 per year!

The acceleration of the 100% tax deduction for the self-employed will help 120,000 previously uninsured and cost about $3 billion over 4 years.

That's $6,250 per person per year—a cadillac cost for sure!

Just for comparison, an individual policy in the Federal Employee Health Benefit Plan costs about $2,500 to $2,800.

The Republican plan is a massive waste of money.

The Joint Tax's letter follows:

JOINT COMMITTEE ON TAXATION,
Washington, DC, October 6, 1999.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: This is in response to your letter of October 4, 1999, requesting revenue estimates and other information concerning several of the health care tax provisions in the conference agreement on H.R. 2488 and two of the health care tax provisions in S. 1344.

The conference agreement on H.R. 2488 contains an above-the-line deduction for health insurance expenses and long-term care insurance expenses for which the taxpayer pays at least 50 percent of the premium. The deduction would be phased in at 25 percent for taxable years beginning in 2002 through 2004, 35 percent for taxable years beginning in 2005, 65 percent for taxable years beginning in 2006, and 100 percent for taxable years beginning in 2007 and thereafter. Taxpayers enrolled in Medicare, Medicaid, Champus, VA, the Indian Health Service, the Children's Health Insurance Program, and the Federal Employees Health Benefits Program would be ineligible for the deduction for health insurance expenses.

The conference agreement on H.R. 2488 also contains a provision that would allow long-term care insurance to be offered as part of cafeteria plans, effective for taxable years beginning after December 31, 2001.

For the purpose of preparing revenue estimates for these provisions in H.R. 2488, we have assumed that the provisions will be enacted during calendar year 1999. Estimates of changes in Federal fiscal year budget receipts are shown in the enclosed table.

We estimate that in calendar year 2002 about 9.1 million taxpayers would claim the 25-percent deduction for health insurance expenses. About 100,000 of these 9 million taxpayers would be new purchasers of health insurance. Assuming an average of two persons covered by each policy, about 200,000 persons would be newly insured as a result of the 25-percent deduction for health insurance expenses.

We estimate that in calendar year 2002 about 4.7 million taxpayers would claim the 25-percent deduction for long-term care insurance expenses, and an additional 300,000 taxpayers would use cafeteria plans to pay their share of premiums for employer-sponsored long-term care insurance. About 80,000 of these 5 million taxpayers would be new purchasers of long-term care insurance.

S. 1344 contains a provision that would increase the deduction for health insurance expenses of self-employed individuals. Under present law, when certain requirements are satisfied, self-employed individuals are permitted to deduct 60 percent of their expenditures on health insurance and long-term care insurance. The deduction is scheduled to increase to 70 percent of such expenses for taxable years beginning in 2002 and 100 percent in all taxable years beginning thereafter. S. 1344 would increase the rate of deduction to 100 percent of health insurance and long-term care insurance expenses for taxable years beginning after December 31, 1999.

S. 1344 also contains provisions that would eliminate certain restrictions on the availability of medical savings accounts, remove the limitation on the number of taxpayers that are permitted to have medical savings accounts, reduce the minimum annual deductibles for high-deductible health plans to $1,000 for plans providing single coverage and $2,000 for plans providing family coverage, increase the medical savings account contribution limit to 100 percent of the annual deductible for the associated high-deductible health plan, limit the additional tax on distributions not used for qualified medical expenses, and allow network-based manage care plans to be high-deductible plans. These provisions would be effective for taxable years beginning after December 31, 1999.

For the purpose of preparing revenue estimates for these provisions in S. 1344, we have assumed that the provisions will be enacted during calendar year 1999. Estimates of changes in Federal fiscal year budget receipts are shown in the enclosed table.

We estimate that in calendar year 2000, about 3.3 million taxpayers would claim the 100-percent deduction for health insurance expenses of self-employed individuals. About 60,000 of these taxpayers would be new purchasers of health insurance. Assuming an average of two persons covered by each policy, about 120,000 persons would be newly insured as a result of the 100-percent deduction for health insurance expenses.

We do not have an estimate of the numbers of individuals who would be newly insured as a result of the medical savings account provisions of S. 1344.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

LINDY L. PAULL.

Enclosure: Table #99–3 206

ESTIMATED REVENUE EFFECTS OF VARIOUS PROVISIONS RELATING TO HEALTH CARE

[By fiscal years, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000–04	2000–08
Health care provisions in the conference agreement for H.R. 2488:													
1. Provide an above-the-line deduction for health insurance expenses—25% in 2002 through 2004, 95% in 2005, 65% in 2006, and 100% thereafter.	tyba 12/31/01	—	—	−444	−1,379	−1,477	−1,803	−3,137	−5,878	−8,299	−8,848	−3,300	−31,264
2. Provide an above-the-line deduction for long-term care insurance expenses—25% in 2002 through 2004, 35% in 2006, 65% in 2006, and 100% thereafter.	tyba 12/31/01	—	—	−48	−328	−964	−417	−677	−1,315	−2,027	−2,146	−741	−7,324
3. Allow long-term care insurance to be offered as part of cafeteria plans; limited to amount of deductible premiums [1].	tyba 12/31/01	—	—	−104	−151	−171	−190	−202	−204	−215	−247	−426	−1,484
Total of health care provisions in the conference agreement for H.R. 2488.		—	—	−596	−1,858	−2,012	−2,410	−4,016	−7,397	−10,541	−11,241	−4,467	−60,074
Health care provisions in S. 1344, as passed by the Senate:													
1. Immediate 100% deductibility of health insurance and long term care insurance premiums of the self-employed.	tyba 12/31/99	−245	−1,007	−1,040	−657							−2,949	−2,844
2. Liberalization of conditions for enrolling in MSAs	tyba 12/31/99	−93	−281	−326	−370	−414	−458	−502	−546	−590	−634	−1,483	−4,214
Total of health care provisions in S. 1344, as passed by the Senate.		−338	−1,268	−1,866	−1,027	−414	−458	−502	−546	−590	−634	−4,432	−7,164

Note.—Details may not add to totals due to rounding.
Legend for ''Effective'' column: tyba=taxable years beginning after [1] Estimate assumes concurrent enactment of the above-the-line deduction for long-term care Insurance (item 2.) Source: Joint Committee on Taxation.

Mr. BILIRAKIS. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Speaker, I thank the gentleman from Florida for yielding me time. I do rise in strong support of this bill this day. So as there will not be any confusion, I want to remind all my colleagues here that later on today and tomorrow we will be debating the bill that provides protection to those people in this country who have insurance; but, Mr. Speaker, today and right now we are talking about those 45 million men, women, and children in this country who do not have any insurance; and, therefore, patient protections that we will be talking about later mean nothing, zero, to those people without health insurance. For those 44 million people, which by the way translates into 1 out of 6 Americans, getting access to quality, affordable health care is the most important and most basic patient protection.

No other bill before this body this week addresses this crisis of the uninsured in this country. This legislation does address the problem, and it does it the right way, by providing access to affordable quality private-sector health care coverage through tax incentives and free market reforms. The Quality Care For the Uninsured Act achieves these in several ways.

First, it would expand access to the medical savings accounts. This legislation would also create two new innovative ways for people to pool together, to come together in groups to obtain more affordable health insurance. The association health plans allow small businesses and people who are self-employed to have that freedom to join together and design more affordable health plans; and the HealthMarts, which is the second one, are private organizations similar in concept to a supermarket where employers, employees, and other individuals can come to purchase health insurance.

The bill would also provide or allow local community providers to form health care networks to meet the special needs of employers and employees in medically underserved areas. These community health center networks would particularly be helpful in rural areas, certainly in areas that I represent and others in this Congress represent.

Last, but not least, this bill provides for 100 percent tax deductible premiums for the self-employed and the uninsured for health care insurance premiums and long-term health care premiums. This will be of tremendous help to the farmers that I represent.

Mr. Speaker, none of these proposals alone will completely solve this problem of underinsured and uninsured, but together they have the potential to expand access to care, opportunity to see a doctor or go to a hospital, this opportunity to a significant number of Americans without busting the budget, without creating new entitlement programs, and without expanding existing government programs.

Mr. Speaker, this legislation is a responsible approach to providing access to care for these 44 million American men, women, and children. I urge all of my colleagues to support it and help these people who have fallen through the cracks and who do not have that opportunity to get affordable good quality health care.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia (Mr. NORWOOD), my good friend and a man of remarkable courage and integrity.

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I thought, if I could, I would take a few minutes and try to put this debate in perspective. There really are a couple of serious, serious problems in health care in America today; and since that involves each of us, each of our families, it involves each of us, each of our families, and it involves every constituent we have whether one is a Republican or Democrat. It is a very important debate, and I am so pleased that we are going to have this opportunity to stand up and discuss it, but let us try to put this in the box.

We are going to talk about two things. One of those things that must be discussed and will be discussed over the next 2 days is that we have a serious problem with so many Americans without any coverage.

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Both sides, Democrats and Republicans, recognize this is a problem. Both sides say they want to correct it, and I believe that to be the case. I have often said if we thought that was a top priority in the Congress of the United States, you need to stand up and say that is a top priority in the Congress of the United States. We are going to correct that, and we are going to fund that. We are going to take the dollars it takes to make sure that we do not have 43 million uninsured Americans.

The other part of the debate though is equally important. It is about people who actually do have insurance. I had a colleague say to me that health care reform does not do a bit of good if you do not have health care insurance. That is most assuredly true. But health care insurance does not do you a bit of good either if the benefits that the plan has offered you are being denied on a regular basis.

What we have done in this country over the last 30 years is we have turned over the health care industry of this country to the insurance industries, and they are in total charge. We preempted state laws, we are very silent at the Federal level, there is no public policy at all. The insurance industry is very much in charge.

The access bill that is before us is about the 21st century. It is about health care in the future and how we will try to help people have access to the health care. I will be perfectly honest with you, I am on my fourth or fifth bill, I forget. In the 101st Congress we had a bill, H.R. 2400. In the 105th Congress I had a bill named Parker, H.R. 1415. It had 234 cosponsors on it. This year I dropped another health care bill, H.R. 216. And all of this was about your benefits within your plan and who is in charge of health care.

But realizing early on this year that this business of access is equally important, I dropped an access bill in February very clearly stating we need to deal with the problem of 43 million Americans that are uninsured. What I was saying back in February are these are two separate subjects, though they are health care. You must keep these separate, because each solution has a different constituency. Perhaps you can pass both things, but if you blend them together very much, you can kill both things.

Mr. Speaker, let me just wrap this up and simply say we have two subjects. One is access, that is, looking into the future of health care, how we can solve some problems, and it should be debated. We are. It should be voted on, and it will be. It should be paid for though. I think if we ever get there, we will do that too.

But the other part of this is about Bob Schumacher from Macon, Georgia, whose wife is dying, and she has been denied a benefit that is in her plan. If we do not deal with this problem right now, we are going to find that further Americans are complaining about their health care, further Americans are going to be harmed, further Americans are going to be killed.

All I ask you to do is let us have both debates, let us have separate votes on this, and let us try to come to an American vote; not a Republican vote and not a Democratic vote. Let us vote as patients on this. What would you have done if it was your family?

I look forward to the debate, Mr. Speaker, over the next two days, and I am sure that if we are careful about it, the American people will enjoy it.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Speaker, today I am pleased to stand up and to speak out on behalf of the Quality Care for the Uninsured Act. I believe this is a commonsense solution to an all too common problem of access to health insurance.

As a mother and a small businesswoman, I understand how important health care is to each American and to every employer. The issue of health care is not just about dollars and cents or rules and regulations, or even liability. First and foremost, the issue of health care is about people and their

access to doctors. It is about knowing there is someone to call when your 3 year old wakes up with a fever. It is about knowing there is a doctor who understands the reoccurring ear infection.

Access has to be the number one goal in this entire health care issue. Today there are 44 million Americans without any health care coverage. These people are not concerned about whether they can sue their HMO, they are concerned about whether they can see a doctor. I am proud to say today may be the day we finally listen to the voices of the uninsured. The Quality Care for the Uninsured Act addresses access with HealthMarts and Association Health Plans, and also full 100 percent deductibility of health insurance.

These proposals hold the promise of health insurance for millions of Americans. By increasing the choices and options, we can decrease the number of uninsured Americans, and is that not really the most important issue? I think it is. After all, when it comes to health care, access to a doctor is far more important than access to a lawyer.

If we are really serious about expanding access to health care, we will vote for this very important proposal. I urge my colleagues to put the patients' interests ahead of special interests. Too many people are still uninsured. Today we have the chance to change that. In short, this bill will mean more access for more Americans. I encourage us all to lower our voices, to raise our sights, and to reach out for the uninsured by passing the Quality Care for the Uninsured Act.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I would like to thank my good friend and ranking member of the Committee on Commerce for yielding me time.

Mr. Speaker, I rise in reluctant opposition to H.R. 2990. Clearly, access to health care is not a Democrat or Republican issue. In fact, I have introduced legislation in the last two Congresses that would do some of the things that this bill would do. In fact, we have not even had a hearing on my bill the last two Congresses, so it is good to be able to talk about it on the floor today.

My bill would allow everyone to deduct from their taxes what their health and long term care costs would be. Unfortunately, the bill we are considering today is poorly timed and irresponsibly drafted.

The Republican leadership has gone out of their way to say they will not spend a dime of the Social Security funds until the program is fixed. Yet that seems to have lasted about a week.

Earlier this week we found out that they were dipping into Social Security for about $16 billion, and today we are proposing an agriculture bill that would dip into the Social Security trust fund to the tune of about $48 billion with H.R. 2990. So this is how it works. They also started running TV ads saying that they were going to devote 100 percent of the Social Security surplus. Hopefully when this Congress is through, we will be able to do that.

This bill promises a lot, but gives little results because it is not funded. Some of the specific things I think that is wrong with it, it expands the MSAs, a demonstration project that has failed, and we have seen that happen. Throwing more tax benefits at the MSAs will not make it become a reality and it will increase health costs for those who remain in traditional health care or insurance or managed care plans.

It misdirects Federal dollars through the tax deduction, disproportionately helps the wealthy by not expanding it to all employees and just doing self-employed predominantly. You are taking the highest income brackets, and the deductions will not help those 32 million people in the 0 to 15 percent tax bracket who will not be able to benefit from this bill.

The last concern I have is that because in Texas we have passed managed care reform and over the years had a very aggressive insurance commissioner or State Department of Insurance, this would bypass state regulation on benefits in Texas in favor of new Federal regulations, and it would disrupt state insurance markets. That is just not true in Texas, but that is in all our states. One size does not fit all.

Mr. BILIRAKIS. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT).

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

Mrs. BIGGERT. Mr. Speaker, I rise in strong support of H.R. 2990, the Quality Care for the Uninsured Act. Reducing the number of uninsured Americans is one of the biggest challenges facing this Congress. My predecessor, Harris Fawell, worked tirelessly toward expanding access to care for those who are currently uninsured. Congressman Fawell's good work continues with this bill, H.R. 2990.

By combining free market reforms with health care tax provisions, this bill expands access to affordable insurance for individuals and small businesses across the country. We in Congress have a responsibility to make it easier, not more difficult, for small businesses to offer health insurance. H.R. 2990 will go a long way towards reaching this goal.

Mr. Speaker, we should not let this opportunity pass us by. I ask all of my colleagues to support this legislation.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I rise to urge a vote against this fiscally irresponsible legislation. It does not make sense to enact legislation that would cost more than $48 billion without paying for it. The authors of this bill claim that it is paid for out of the non-Social Security surplus. They have been spending this surplus once a week for the last month and a half. We started out, as this chart shows, the first of July with $14 billion in surplus, and now we are down to something less than $25 billion that we have overspent.

Here we go again. Although we are projected to begin running substantial on-budget surpluses in 2001, these are just projections. This is not real money. Enacting policies now that will result in a permanent revenue loss based on projected surpluses that may not materialize is irresponsible. Adding to the debt our children have to pay off is reckless and foolhardy.

Why would we want to rob the Social Security trust fund again? This is a tax bill that is not paid for. Let us not do this to our precious children and to their future. Let us save the Social Security trust fund.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this bill. The fact is that this bill is not paid for. It is a $48 billion raid on Social Security. That is one reason to vote against it.

The so-called access bill fails to provide any access for the people who truly need it most. It includes discredited medical savings accounts that only help the wealthy and the healthy. In fact, nearly one-third of all uninsured Americans would receive no help under this bill. As has been pointed out, only 160,000 people would be the beneficiaries of this bill. A second good reason to vote against it.

The third reason to vote against the bill is that it represents a last-ditch effort to kill the Patients' Bill of Rights. The Republican leadership has announced that they will attach this sham bill to the bipartisan Patients' Bill of Rights. A strong bipartisan majority in this body supports the Dingell-Norwood bill, but we have been fighting against a small minority in the Republican leadership every step of the way.

Why do they oppose HMO reform? Because they are in league with the insurance lobby, a major campaign contributor to the Republican Party. In fact, just yesterday, on the eve of this important health care debate, the Republican leadership held a breakfast with the insurance industry, a sad testament.

We should not be surprised that the Republican leadership is thwarting the will of this House. There is nothing new here. It is what we saw earlier this year on gun safety legislation, it is what we saw on campaign finance reform, an unwillingness to allow an honest debate and the use of clever procedural tricks to defeat reform.

People in this country are dying because our health care system is broken,

and the Republican leaders' response? Meet with the insurance lobby and devise a clever way to try to kill HMO reform.

Vote against this legislation. Let us have a fair and an open debate on Patients' Bill of Rights, a bill that would put medical decision making back into the hands of doctors and patients and make HMOs accountable.

□ 1445

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, can we imagine the fireworks that would erupt on this floor if the Democrats brought forward a bill that was $45 billion in a hit to the Treasury, without a nickel in how it is paid for? That is precisely the proposal offered by the majority with this access bill, a $45 billion hit over 10 years to the Treasury, and not one nickel in terms of how those monies would be paid for.

I am for full deductibility of health insurance premiums paid by individuals, but let us show how we are going to pay for it, so we are not spending the social security trust fund to do it.

I rise for another very important reason on this bill. I am the only former insurance commissioner in Congress. I know the consumer protection role played by State insurance departments. Every day State insurance department officials are helping people get claims paid, helping them deal with insurance complaints.

This bill in a major way would preempt all of that. Association health plans, community health center networks, HealthMarts, all of these features of this access bill would take it from State insurance departments and place it into a never-never-land of a soon-to-be-created Federal bureaucracy for regulation.

This whole Patients' Bill of Rights is about getting patients protections, because they right now do not have sufficient protections with their HMOs. How ironic that the majority would come up with a proposal that literally would take those who are now protected and push them also into the unprotected categories.

Consumers should not have to turn to some Federal bureaucracy to get a claim paid. Consumers should not have to call someone in the Federal bureaucracy to get approval to get the medical procedures that they need. They should go to their State insurance department, fifty State insurance departments, all with toll-free lines located right in the State capitols.

This bill, through the association health plans, the community health center networks, and the HealthMarts, would take it all away. Keep consumer protection. Defeat the access bill.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I rise in opposition to this bill.

Mr. Speaker, I rise today to oppose this legislation that purports to provide access to health care for those who need it most—the uninsured. I know this is the month that we celebrate Halloween, but it is way too early for these gimmicks and tricks. The American people expect treats not tricks and this bill represents a trick for two reasons.

First, at a time when we are experiencing unprecedented economic growth the number of uninsured individuals has risen more than one million over the past year to 44 million Americans. This legislation that purports to help the needy does more by way of giving tax breaks to help the wealthy—that the needy would hardly benefit from this bill. According to the General Accounting Office nearly one-third of all uninsured Americans do not pay income taxes. These families would not benefit under this bill. Instead the greatest benefits under this bill would go to the 600,000 families that make almost $100,000 per year.

Secondly, this bill expands medical savings accounts—a special tax break for the healthy and wealthy that threatens to increase health insurance premiums for everyone else. This provision was added to an important health portability bill in 1996—and this provision drew a veto from President Clinton—ultimately killing the bill. Here we are again, a chance to do something meaningful to improve the quality of life and health care for those who do not have access, but yet we would attach provisions that effectively make the bill DOA (dead on arrival). The effect of merging this bill with the Norwood-Dingell bill is to kill meaningful managed care legislation.

I support improving access to health care, in my congressional district 175,000 people live at or below the poverty level. It is a district that has pockets of poverty and great need. Unfortunately, this bill does not help to alleviate the hurt and pain of the uninsured in my district. If we are serious about providing access then we need to pass a universal health care bill. A bill that allows individuals to go to the doctor when they need to go, a bill that allows them to see a specialist, a bill that allows them prescription drug coverage. That is what access is all about. This bill is a trick, a sham, and not a treat for the vast majority of Americans who need health coverage. I urge my colleagues to vote ''no'' on this gimmick laden legislation.

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

Mr. Speaker, we have heard it already. This access package is going to cost $156,000 for a well-to-do patient. It is not going to give anything to the poor. The reason for that is that this is a tax deduction. The poor do not pay taxes.

So who is going to get, then, the money that is going to come under this proposal? Only the well-to-do. What will be the practical effect on the insurance pool? To suck out the well-to-do out of the conventional insurance pool and to set up a very special, privileged insurance pool for the well-to-do. That is what this legislation does.

In addition to that, the legislation expands SMAs. This is another proposal which benefits the well-to-do, because they do not care whether they have to buy the insurance or not, what they want to do is to get the tax deduction and tax break which benefits only those of substantial means.

The other thing that it does, it misdirects Federal tax dollars to tax deductions that help the wealthy. This is hardly a defensible expansion. Remember, we are paying $156,000 per new insurance beneficiary. The whole of this program is going to cost $31.2 billion. Guess from what part of the government accounting structure it is coming. It is coming from the social security deficit, which is now a reality at this particular time.

I think it is time we recognize that what we are here for is to craft good legislation. This is not. If Members want to craft good legislation in the field of covering new people, then the minority stands ready to help our Republican colleagues towards that end. This bill does not do that.

We came here to talk about the Patients' Bill of Rights, about protecting the rights of patients, not in obfuscating the issue by bringing forward a lot of phony tax breaks and a lot of help to fatten the rich at the expense of the poor. What we need here is attention to the real problem. Then if they want to go on in a carefully packaged and carefully programmed set of rules, regulations, and laws which will address the problems of people in terms of providing uniform coverage for all Americans, I stand ready to do it.

I remind my Republican colleagues that it was they who killed, together with the assistance of their same good friends in the insurance lobby, the President's last proposal to expand health care to all Americans. It looks like they are up to the same game today.

Mr. BILIRAKIS. Mr. Speaker, I yield the balance of my time to the gentleman from Arizona (Mr. SHADEGG).

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Arizona (Mr. SHADEGG) is recognized for 5 minutes.

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

Mr. SHADEGG. Mr. Speaker, let me begin by thanking the chairmen of the Committee on Commerce and the Subcommittee on Health, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Florida (Mr. BILIRAKIS), for making this debate possible, and for their hard work.

Secondly, let me set the record straight. On two different occasions, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Florida (Mr. BILIRAKIS) offered to work with the gentleman from Michigan (Mr. DINGELL) on access legislation, and their staffs made an offer to work. That offer was not taken up, so the notion that we have not attempted to work with the minority on access legislation is simply wrong.

Let me address a second argument made here, which is that these two

issues do not belong together. If Members do not believe these two issues belong together, they are not looking at what is happening in health care in America today.

If they can say, well, we should not deal with quality of care at the same time we deal with access to care, at a point in American history when we have 44 million people who are uninsured, they do not get what is going on here. If they think we should not deal with affordability at the same time we deal with quality, they do not understand that this is all about health care. If they do not think we should give people choice at the same time that we improve quality, they do not understand markets or how this system works.

We have to deal with access, affordability, and choice in order to get quality. So let me set the record straight on that point, as well.

The next issue I want to deal with is the question of pay-for. The other side says these tax relief measures, attempting to give Americans who do not have health insurance now a chance to get health insurance, are not paid for, that we cannot afford this bill. Let me tell the Members, we cannot afford not to pass this bill.

Thankfully, these people are getting care, but they are getting care in the most expensive form of all. They are getting it in emergency rooms. This bill lets every single American have a better chance to access affordable care. The statement that it does not help an entire group of Americans is flat false. It is wrong. Let me explain why.

This bill allows small businesses to pool together through HealthMarts and association health plans and to offer coverage. That includes small businesses who today cannot provide their employees any insurance, forget the tax bracket they are in. To talk about an employee the other side has talked about who does not pay a dime in income tax, but works for an employer that cannot give that employee any health care, this bill makes it possible for that employer to give that employee health care because they can pool together and offer them more affordable coverage. So, so much for the claim that it does not help anybody at all.

Then let us talk about access for the insured. This is a USA Today editorial. It appeared earlier this year. It points out that more and more Americans are losing choice. They are offered one plan and one plan only.

The minority may think that is great, a single system, take it or leave it; too bad, no choice. If it does not fit you and your family, you are stuck. Too bad. Indeed, they must think it is okay because they have offered nothing to counter that.

We have offered something. We have said, we ought to give all Americans, including those lucky enough to have coverage, more choices. Let us talk about how many people do not have choices. Seventy-nine percent of all employers in firms with less than 200 employees offer their employees one choice, only one choice. Almost 80 percent say, you get one choice. That is small business America. You are stuck with the plan you are offered.

Our bill would let those employers offer those employees not one but five or six or eight choices. Maybe Members are against choice. I did not think so. But this legislation would help those employees just like it would help the uninsured, regardless of their tax break. By the way, it helps everybody that does pay income taxes.

Let us talk about big employers. Even in firms with more than 200 employees, only 46 percent offer their employees two plans to choose from. That is, most, barely over or almost half, say you get one choice, even when you work in a fairly large company, a company with over 200 employees.

This bill is about access for the uninsured. It is about affordability for the uninsured, and it is about choice for every single American. The other side says, no, we do not want access. We do not want choice. We are not worried about affordability. It is a poison pill to simply discuss this the same day we talk about quality.

It is not a poison pill. The marriage of these two bills does not occur until after they leave the floor. That is the point in time when we ought to be dealing with a comprehensive fix for health care in America.

I urge my colleagues to vote for this bill. It is good legislation. Regardless of the obstructionist tactics of the minority, affordability, access, and choice will help health care in America. I urge my colleagues to vote for H.R. 2990, a bill which I cosponsored with the gentleman from Missouri (Mr. TALENT) and which I am proud of.

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

Mr. Speaker, we said a little while ago that this bill is obfuscating the real issue. This bill is about the uninsured. Let us look at the 44 million people who some believe are obfuscating the real issue.

Three-quarters of those people work for small businesses. One out of every six Americans is uninsured. Eleven million kids in the United States are uninsured. As I said, three-quarters of these people either own small businesses or work in small businesses or are dependents of people who own or work in small businesses.

What does it mean to be uninsured in America today? It means you face the risk of illness without the shield of health insurance. You gamble that you are not going to get sick. We have 44 million people running that gamble every day, and a lot of them lose.

Linda Welch-Green has lost. Her story was reported in the Baltimore Sun today. Three of her teeth have fallen out because she cannot afford to go to the dentist anymore. She has Bell's palsy that has paralyzed part of her face. She cannot get it treated. The reason is she works, she works full-time, and her employer offers health insurance, but it is so expensive for small employers that she cannot afford the buy-in, so she uses her money to pay for her mortgage instead of for health care for herself.

We can do something about that, Mr. Speaker, if we pass this bill. This is the only bill we are going to have a chance to consider that does anything for the uninsured, and it does a lot, the part of it that we passed out of the Committee on Education on association health plans. It is a simple thing. It allows small businesses to pool together in their trade or professional associations or farm associations, would allow farmers to do this, and when they pool together, they can buy health insurance with the same kinds of economies and efficiencies that big businesses already have.

So if you work for a restaurant, instead of being part of a six-person pool or an eight-person pool, you can be part of a pool of 20,000 or 30,000 people, because you can be part of a pool of restaurants all around the country.

We have had hearings on this bill year after year after year. Our estimate is that, at a minimum, and this is a conservative estimate, it will reduce the cost of health insurance to small businesses by 10 percent to 20 percent. That means 4 to 8 million of these people are going to be able to get insurance who do not have it.

Yes, by the way, as the gentleman from Arizona (Mr. SHADEGG) said so eloquently, maybe others who now have access to one bare-boned HMO are going to have access to a whole lot more choices.

It is about these people who are running this gamble every day. Many of them are losing. We can help them today. Let us help them. Let us not let politics get in the way of this. Let us vote for this bill today. We take up the second half of this health care reform later today or tomorrow. We can do this.

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

Mr. CLAY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I support access and choice for the uninsured health care consumer. However, I rise in opposition to the proposal before us today because it will not deliver on either. It fails because it promotes such flawed ideas as association health plans.

Many experts have criticized association health plans, yet Republicans continue to trumpet them. They do so at the behest of their special interest friends, and not because of any real demand from health care consumers. The dangers inherent in association health plans became apparent to me when legislation to establish them was first considered by the Committee on Education and the Workforce back in 1997.

□ 1500

The experts told us then that they had major concerns about the effect on

the insurance marketplace. The National Governors Association, the National Conference of State Legislatures, and the National Association of Insurance Commissioners advise that Association Health Plans would undermine positive State reforms already in place to help consumers and would contribute to the collapse of small group health insurance.

According to CBO, Association Health Plans would increase the risk of health plan failures and allow groups of healthier people to receive favorable premium rates while leaving groups with sick and elderly enrollees to pay higher ones.

The American Academy of Actuaries advise that Association Health Plans could increase solvency risks and create regulatory confusion. The Urban Institutes Research determined that Association Health Plans would not reduce the number of the uninsured because nonparticipating firms are likely to drop their health insurance coverage rather than pay the higher rates that would result from a deteriorating risk pool.

I urge my colleagues to reject these dangerous remedies and vote no on H.R. 2990.

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

Mr. TALENT. Mr. Speaker, I yield myself 30 seconds to address two points.

We have very strong reserve requirements in this bill. There is no solvency problem, no reason why these associations cannot sponsor plans the same way that big companies do.

The second thing is that the bill requires that employers must offer, must carry, they must offer this coverage to every employee they have on the payroll, even if they have a history of illness. This will result in sick people going into Association Health Plans because they are going to get better coverage there.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, when we look at today's health care system, there are two problems that most all of us can agree on, that we need more accountable in managed care, which virtually every Member of this Chamber is supportive of, and we that have 44 million people who have no insurance whatsoever.

So as we proceed in this debate, it is clear to me that we have three principles that we have to follow. How do we make sure that we get more accountability in managed care.

Secondly, how do we make sure that health care insurance is affordable for all Americans to ensure that all Americans have greater access. Accountability, affordability, accessibility.

In my view, we cannot deal with one of these issues without dealing with all of them. We cannot deal with one principle and ignore one. That is why this rule today and this debate that we are having is about accessibility today, and we will deal with accountability tomorrow.

When we look at the uninsured, as the gentleman from St. Louis, Missouri (Mr. TALENT) pointed out, they work for small businesses. They want to buy insurance, but they cannot afford to do it.

When one looks at what we are going to do tomorrow, we are going to raise the cost of insurance. As we add more accountability for insurers, employers, and others, we are going to raise the cost of insurance. That is what the debate earlier was about. We wanted to offset the cost of it.

As we raise it, we are going to push more people into the ranks of the uninsured. That is because there is a clear link between the cost of health care and people's access to it.

So we have got to move this bill, this access bill today, because whether one has insurance or not, one wants to be protected. We ought to help all patients in America today whether one has insurance or not.

I think that the bill that we have today guaranteeing greater access to health care for the uninsured is the first major step that we take. Then tomorrow we will deal with more accountability.

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, we all know that Halloween is fast approaching. The question is trick or treat. H.R. 2990 is, in effect, a trick or treat measure.

We offer a treat with Norwood-Dingell, the Patients' Bill of Rights. However, Americans are being tricked by H.R. 2990.

The trick: getting health care in America. The treat: goes only to the wealthy. The trick: pooling and separating of persons with greater health risks from those with less, leaving many people uninsured. The trick: MSAs, Medical Savings Accounts, they are MIA, missing in action. No insurance company has yet to offer this coverage to senior citizens. The treat: health care access for small business. I sit on the Committee on Small Business. I know what they need.

The trick is that these Association Health Plans would not be subject to State regulation and cannot be sued in court just like the HMOs. Just like Halloween, H.R. 2990 is a hollow effort. Let us deflate this pumpkin now.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, I have spoken on the floor of the House many times on the issue of access. I have grave concerns about one of the provisions in this bill as it relates to Association Health Plans. The times that I have spoken before on the House floor, I have entered into the CONGRESSIONAL RECORD these letters which I am going to cite. The National Governors Association, National Conference of State Legislatures, and National Association of Insurance Commissioners have expressed reservations about Association Health Plans.

Here is a memo from the HIAA. It strikes my colleagues as a little ironic that I am citing this. I happen to think they are right on this, because insurers like Blue Cross Blue Shield and others are the insurers of last resort. They know about the risk pool in the United States.

They say, ''We have grave concerns about the calls for Association Health Plans and HealthMarts, because they would hurt many small employers who provide coverage to their employees; and that could in turn cause many of those employers to drop their coverage because it would be too costly.'' That would be exactly the opposite purpose of what we want to achieve in this bill.

Here we have a memo from Blue Cross Blue Shield. ''Association Health Plans, the unraveling of State insurance reforms.'' Same source, ''Association Health Plan, national survey finds that small businesses reject Association Health Plan legislation.'' Blue Cross Blue Shield, ''Association Health Plan legislation would increase administrative costs for small businesses.''

Association Health Plan study shows that a claim that coverage would increase is fundamentally flawed.

Here is a Blue Cross Blue Shield study, ''Association Health Plan legislation would reduce insurance coverage.'' Another Blue Cross Blue Shield study, ''Association Health Plan legislation would require billions in Federal regulatory spending.''

Then I have a letter that is from a number of organizations that say, key concerns about Association Health Plans are that it would increase the cost of insurance rather than decrease it, that it would leave a sicker pool for those States and thereby actually result in the exact opposite of our access legislation.

Mr. Speaker, this is a poor provision, and we should oppose it.

Mr. Speaker, I include for the RECORD the letter I referred to as follows:

JUNE 24, 1999.

DEAR REPRESENTATIVE: As representatives of consumers, seniors, labor, the religious community, and people with disabilities and chronic illnesses, we are writing to urge you to oppose H.R. 2047, the ''Small Business Access and Choice for Entrepreneurs Act of 1999.'' This bill would move our health care system in the wrong direction. As long as Congress continues on the path of incremental health reform, we believe that such reforms must meet this litmus test: does the bill make health care more affordable for American families, without creating harmful side effects that offset its benefits? We believe that Association Health Plans (AHP's), as defined in this bill, will do more harm than good to our health care system.

Our key concerns about the bill are:

''Affordable'' health coverage through skimpy benefits. The bill allows AHP's to design their benefit options, exempting AHP's

from state benefit mandates that apply to other insurance plans (except laws that prohibit an exclusion of a specific disease). This means that AHP's will be free to create barebones policies with skimpy benefits. The premium may well be low and ''affordable'' but when policyholders get seriously sick, or when they seek cancer screening or preventive care that would have been covered, they are likely to find their out-of-pocket costs to be very high.

Fragmentation of health risk pool. AHP's have the potential to further fragment the risk pool. Because AHP's would be exempt from state benefit standards, they would attract healthier, low-cost members. There is a grave danger that associations will form in part to offer low cost coverage to people with low health risks or avoid high cost areas. The net effect is to undermine state regulatory efforts to spread risks broadly.

Existing AHP's exempt from state premium taxes. The bill allows states to collect a ''contribution tax'' only on plans started after enactment of the Act. This creates an unfair loophole for existing associations; unlike other health plans they will be exempt from premium taxes that are used to cover health care costs for the uninsured and certain high-cost individuals.

Exemption from state consumer protection regulation. In addition to being exempt from state benefit mandates, AHP's could be exempt from state consumer protection regulation, like other self-insured health plans. Creating a new loophole from regulation is a step in the wrong direction for our health care system.

We agree that small businesses—as well as large businesses, individuals, and families—should all have access to affordable health care coverage. But we believe that to achieve this goal, we need to set rules so that marketplace competition benefits consumers, not health plans (or associations) that cherry pick the healthy. We need standard, comprehensive benefits. We need market reforms that spread the cost between the healthy and the sick. We need sizable subsidies to bring premiums in reach of moderate-income families. Association Health Plans do not move the health care system in the right direction.

Sincerely,

American Counseling Association, American Federation of State, County, and Municipal Employees, Bazelon Center for Mental Health Law, Brain Injury Association, Center on Disability and Health, Committee on Children, Communication Workers of America, Consumer Coalition for Quality Health Care, Consumers Union, Eldercare America, Inc.

Families USA, Friends Committee on National Legislation, General Board of Church and Society of The United Methodist Church, National Association of Developmental Disabilities Councils, National Association of People with AIDS, National Association of School Psychologists, National Association of Social Workers, National Council of Senior Citizens, National Health Law Program, National Mental Health Association, National Osteoporosis Foundation.

National Partnership for Women & Families, National Patient Advocate Foundation, National Senior Citizens Law Center, National Women's Health Network, Neighbor to Neighbor, Network: A National Catholic Social Justice Lobby, Public Citizen, Service Employees International Union, The Arc of the United States, UNITE, Union of Needletrades, Industrial & Textile Employees, United Church of Christ, Office of Church & Society, United Food and Commercial Workers International Union, Universal Health Care Action Network (UHCAN).

Mr. TALENT. Mr. Speaker, I yield myself 1 minute to respond.

The gentleman is quite correct, the insurance companies do not like this legislation and neither do the insurance regulators, because it will result in small businesses being able to participate in associations which will have at least some self-funded plans.

The insurance companies do not like that because they lose business. The insurance regulators do not like that because they lose business. They do not get to regulate the self-funded plans.

As for this costing small businesses more money, tell that to the small funeral home in North Carolina with less than 10 employees that was hit with a 73 percent increase this year by Blue Cross Blue Shield because it is on the small group market.

Tell that to the members of the Western Retail Implement and Hardware Association which was hit with a 65 percent increase this year because it is on the small group market. Tell that to the small businesses around this country that are experiencing on average a 20 percent increase in health costs.

No, the reason all the small business groups support this, Mr. Speaker, is because it is going to reduce their costs and decrease the number of uninsured.

Mr. Speaker, I am very happy to yield 3 minutes to the gentleman from California (Mr. DOOLEY), my friend and cosponsor of the Association Health Plan bill.

Mr. DOOLEY of California. Mr. Speaker, I rise in support to draw the attention of my colleagues to a provision in this bill that would dramatically expand access to affordable health care for small businesses and working families. The bill allows small businesses and self-employed individuals to purchase health insurance for themselves and the workers through Associated Health Plans.

We all saw on the news last week the ranks of those without insurance grew by 1 million last year, up to 44.3 million. It also was not lost on us that, of that number, 60 percent of those individuals are working for a small business.

I support this legislation because it would expand access to health insurance to the working poor of our country. My district in the Central Valley of California has one of the lowest private insurance coverage rates in the State, and the problem is getting worse. It is also one of the lowest income districts in the country. These low-income families have few options for gaining health insurance.

But an excellent solution to this problem has already emerged in the form of an Associated Health Plan that is already providing coverage to thousands of farmers, farm workers, and their families.

In my district, where agriculture represents the heart of our economy, Association Health Plans have made a significant impact and can make an even stronger impact by providing health insurance to more seasonal and migrant farm workers.

I would like to share with my colleagues just one story. The Lopez family from Visalia, California, in my district, has firsthand knowledge on how Association Health Plans can provide top quality care. Amalia Lopez works at a citrus packing house in Visalia and receives her health insurance through an Association Health Plan through Western Growers Association. Her daughter Lizette was diagnosed at age 10 with a heart ailment; and it became apparent, unless she had a heart transplant, she would die.

In June of last year, Lizette was informed that a donor had been found in Western Growers insurance plan, helicoptered to the UCLA Medical Center for an operation. The operation was a success, and, today, Lizette is back in school and living the life of a normal teenager.

The hospital bill for Lizette's operation was $270,000. But the Association Health Plan covered the vast majority of the cost and Lizette's family only had to pay $5,000.

Lizette's story demonstrates that Association Health Plans work in delivering affordable health care to working families. They provide a compelling and cost effective means of providing affordable quality health insurance to a greater number of people.

The issue for the Lopez family and thousands of other low-income families is not a choice between different insurance plans, it really is a choice oftentimes whether they will have health insurance through an Association Health Plan or no health insurance at all.

Let us not deny low-income families an opportunity to have quality health insurance that can be provided through an Association Health Plan.

Mr. CLAY. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, it is noteworthy that the gentleman from Missouri (Mr. TALENT) cited that insurance commissioners and insurance companies oppose the Associated Health Plans. Also noteworthy, he did not cite the 31 Republican governors that also oppose it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman from Missouri for yielding me this time.

Mr. Speaker, the Republican leadership has a knack for putting an attractive name on terrible bills. They are doing this today with H.R. 2990, what is called the Quality Care For The Uninsured Act.

H.R. 2990 provides no increased access to health care for the uninsured; and, yet, it would take up to $43 billion away from important programs that do help the American people.

This bill is a sham. We do not need it to make health insurance tax deductibility for the self-employed. That will happen even without this bill.

Among other deceptive things that H.R. 2990 would provide are Medical Savings Accounts. We told our colleagues this was a bad idea when it was

forced down our throat 2 years ago. Even the insurance industry has not used them. MSAs are a proven failure, and we do not need to be voting for them today.

This bill would also provide tax deductions for long-term care. Who will that help? Only those who pay taxes, those who, after living expenses, have money left over to pay for it, the usual people the Republican leadership looks out for, the rich.

Mr. Speaker, we should care about the 44 million uninsured in this country. They are mostly women, people of color, and the poor. I am committed to working with my colleagues on both sides of the aisle and groups around this country to make sure that we do achieve universal access and universal coverage.

But this bill, H.R. 2990, does nothing, absolutely nothing to provide any help to these people who are largely poor to purchase any coverage.

□ 1515

The only bill that will give back access to health care for those from whom managed care has taken it is H.R. 2723, Norwood-Dingell bill. Let us pass that bill to provide real access to quality care for the insured. That is the first step. Then let us work together to give real access to health care for the 44 million who currently have none. Vote ''no'' on H.R. 2990.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in opposition to this bill.

Mr. Speaker, this bill provides taxpayer subsidized access to people who largely do not need it, who already have it, and does virtually nothing for those who have nothing.

We heard some talk on the floor earlier about the typical uninsured person, and that is the person I want to focus on for a few minutes this afternoon. She is usually a working person. She makes $20,000 or $21,000 a year. She has children, and she is working 40 hours a week.

I want us to examine how little this bill does for that person. The first thing she is supposed to do under this bill is, if she is self-employed, is to have a sped-up deduction from her income tax return, which is worth the princely sum of $300 a year, when fully phased in, toward her $6,000 that she would have to pay in premiums or more. That is nothing more than superficial help for someone.

The next thing she is supposed to hope for is that her employer, if she is employed by someone else, will join an association health plan. The most optimistic projections I have ever heard about these things say they might lower the cost to small business by 15 or 20 percent. Now, that is nothing to sneer at. That is nothing to sneer at, but she has to keep her fingers crossed that maybe her employer will do such a thing and she will get lucky.

Of course, once she gets into such a plan, all the protections of State law, the mandatory stay if she has a C-section, the mandatory coverage for breast or cervical cancer, the mandatory coverage for immunization for her kids are not subject to these plans. So she can wind up with a health insurance plan that is not worth the paper it is written on.

Finally, this bill gives her the tremendous opportunity to contribute to her medical savings account. After she has paid her rent and her utility bills and her groceries and her auto insurance and her car payment and her child care and all the other things she has to do, this enormous amount of money that she has left over she can now put into an MSA.

This is a cruel hoax. It should be defeated because it does not provide access.

Mr. TALENT. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, as we begin the floor debate today on patient protections, it is important that we do not forget those 44 million uninsured Americans who have no protections at all. More than 60 percent of the uninsured have one thing in common; they are either self-employed or their family is employed by a small business that cannot afford to provide health benefits.

As a former small business owner, I understand firsthand that small businesses have difficulties in providing health care to their employees. Conventional health insurance and administrative costs are just too expensive for small businesses. In 1997, a typical small business owner paid $4,342 per employee for a family plan, yet a Fortune 500 company paid an average of $3,521.

Association health plans would empower small business owners with the purchasing power of a large business. In fact, AHPs would reduce health care costs for small businesses by 10 percent.

Providing health care for small business employers ought not to be a choice between feeding their own families and taking care of their employees. The small business owners of this Nation want and need to do both. AHPs will help 8 million small business employees obtain coverage. Small businesses need equal fitting in the health insurance market. That is protection we cannot afford to pass up.

Let us open up health care for all working people. I strongly support this bill, and I urge my colleagues to vote in support of it.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan (Ms. KILPATRICK).

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

Ms. KILPATRICK. Mr. Speaker, I thank the gentleman from Missouri (Mr. CLAY) for his fine leadership.

One of the most important issues we will face in this 106th Congress is health care. Will Americans in the richest country in the world have available to them the health care they need for themselves and their families?

Access. Will they have the access to get the health care that they need? I am afraid, my colleagues, the bill before us today does not address that issue. Our own Government Accounting Office has said to us that the poorest of the poor who are uninsured today, with this access bill before us, still will not have access.

Is it the right thing to do? I think not. First of all, the bill is for the wealthiest and the healthiest. Yes, we want everyone to have insurance. Yes, we want those small business owners to be able to have insurance for themselves and their employees. But we also want the others who are uninsured to have insurance, too.

All week long we have been hearing that over 40 million Americans do not have health insurance, that one out of six do not have health insurance, that 11 million children or more do not have health insurance. Will this bill address those people? In large part, it will not.

It is unfortunate as we debate this subject today, with this most important issue that our country faces, that this bill continues to leave too many people out. The bill is not offset.

We, in our other proposal, which is a bipartisan proposal I might add, and would cost $7 billion over the next 5 years, wanted to have offsets for it. Our leadership, the Republican leadership, said no. This bill will cost $40-plus billion. It is not paid for. It is not offset. And we think that is unfair and unconscionable.

It does not improve the affordability of health care if an individual does not have the up-front money. Many families and many children who live in those families do not have that. It does not help the poorest of the poor in America. When will they have access?

It digs into our Social Security Trust Fund in that it will take out from the Treasury before we put into it. It is not fair.

Mr. Speaker, I urge my colleagues, let us not adopt this. Let us get back to work on a real bipartisan solution that actually accesses those things that people need to carry on their daily lives. It is a bad idea; it is a bad bill; and I urge my colleagues to vote ''no.''

Mr. TALENT. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, I certainly appreciate the gentleman from Missouri (Mr. TALENT) and the gentleman from Arizona (Mr. SHADEGG) for the work they have done on this bill to make sure that we make health care more affordable and more accessible.

Let me first start in saying, what does it mean to be uninsured in this country? I will share with my colleagues, and especially those on this side of the aisle that oppose this, what it really means.

A patient named Mary came to me a few years ago. She had no insurance. She was not the poorest of poor, because the poorest of poor have Medicaid. She was working, but she did not have insurance. She came to me and, upon exam, it was very obvious that she had a very large tumor. Cancer, metastatic cancer, that probably could have been prevented had she had health care and had the kind of preventive care that patients that will benefit from this legislation will have.

Now, many will say this is not a perfect solution. I agree with that. But what it means to not have health care means an individual does not have access to getting the kind of preventive care that will prevent the kind of diseases that will take an individual's life too soon.

In Kentucky, what is happening? We have had health care reform. Now, if an individual is on the individual market, they only have two choices of insurance. And small businesses only have a few. This plan with associated health plans and health marts gives the opportunity for individuals to have health care, as small businesses can help reduce their costs from 10 to 15 percent and be able to offer a spectrum of choice that will enable them to get the kind of health care and the preventive care that they need.

Some folks say, well, we should not link these two. I am kind of disappointed they were not linked to begin with because they are inseparable. The whole debate about patient protection is about how the money, cost of reimbursal, affects access. Because if an insurance company says they are not going to pay for something, they do not prevent an individual from having treatment; but they limit the access because the patient cannot afford it.

Right now we have limited access because folks cannot afford health insurance, because small businesses cannot offer it, because we do not have legislation that encourages small businesses to offer it. This will allow the tax deductions for individuals to allow small companies to come together.

And now insurance companies do not like it. Why? Because they will have to contract and negotiate with a group of individuals much larger than just a small company. I have been a small business owner. I know what it is like to buy insurance. I have seen the costs escalate every year, and I think this will help small businesses.

I ask those folks on the left that oppose this to look at themselves in the mirror and look at patients like Mary, who I am talking about, and ask themselves whether this will help her get insurance. I hope my colleagues can look at themselves in the mirror and say, this is not perfect, but at least it is a step in the right direction. My intent in coming to Congress was to make sure that we eventually get every American covered with health insurance. This is a step.

Some would like a government-run, single-payer system; others like a market-based system. I think a market-based system with choice is the way to go. This does that. I encourage my colleagues to vote for this measure.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman from Missouri for yielding me this time.

Mr. Speaker, some will say this is about access for the more than 44 million Americans that are now known to be without health care. In fact, we now know, since 1998, that more than 1.3 million new persons that are uninsured.

But let us examine if this is really about access for all of those people or for the majority of those people. Certainly coming from rural North Carolina, I can tell my colleagues that rural North Carolina does not have as many insured people with HMOs as they would have in urban areas. So access is important. Uninsured people are very important.

But when we consider that this tax break is designed for those who have been substantially paying into the revenue, we know that that eliminates immediately a majority of the children who are uninsured who may have working parents who are not on Medicaid. They make too much for Medicaid but are not insured. We have to understand that these individuals would have to pay a substantial amount to make any sense. If indeed they had the $4,500 or the $5,000 to pay for the premium, perhaps they would get $700 as a break.

Help me understand how those 33 million people can call this access. Indeed, this is insufficient and should not be labeled as access. The Norwood-Dingell bill is about access. It is about access for those who have insurance to have better access, to ensure that their care is based on medical necessity, that they will not be denied based on an insurance promise that we will not allow you to be covered.

Indeed, this is a fraud. This is inadequate. We should be ashamed of ourselves thinking we are addressing the needs of the American people by calling this access. Defeat this bill and, indeed, support the Norwood-Dingell bill.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. THURMAN).

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

One year ago, I actually introduced a piece of legislation because of an article that was in the St. Pete Times about a group of employees whose company actually was on the verge of bankruptcy. They allegedly pocketed their employees' health care premiums. The health insurer, hoping that the employer would catch up on overdue premiums, agreed to work with the employer to resolve the unpaid debt.

Meanwhile, the unsuspecting employees continued to receive authorized health care coverage. When the company ultimately filed for bankruptcy, the health insurer retroactively terminated the employees' health plan. One woman in this article ended up having to be stuck with $20,000 worth of medical bills.

As a result, the cost of any health visit or procedure conducted the preceding 3 months became the sole responsibility of each employee. In addition, because they did not meet the 63-day standard under HIPAA, because it went 70, they could not even get any kind of insurance.

□ 1530

I think it is unconscionable. As we introduced this legislation, we found out that there were several other areas around this country that these same things happen. So on Monday I went to the Committee on Rules because I, too, am concerned about access and I am really concerned about access for people who had it and lost it because they do not have the opportunity to contract with this company but the employee does. The insurance commissioner in Florida said, in fact, they were in their rights because the contract was with the employer.

So we went in and we said, okay, look. They ought to prohibit retroactive termination of health insurance by requiring that the insurance company provide 30 days' notice of pending termination of coverage.

In addition, we required that such employees be extended HIPAA protections for obtaining alternative coverage. I do not want to hear about access. This was not included and this was one that cost nothing.

Mr. TALENT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, as we consider health care legislation in Congress today, it is essential that we find ways to make health care more affordable for American families.

There are 44 million uninsured people in this country; and this number, unfortunately, is growing steadily. Comprehensive health insurance is rapidly becoming too expensive for the average working family, and many small businesses are unable to provide costly group plans. We need to help the millions of Americans that do not have health insurance, as well as those who are struggling to afford quality care.

The Quality Care for the Uninsured Act will do just that by allowing taxpayers to deduct their health insurance premiums and giving small businesses and associations the freedom to provide their employees more comprehensive and flexible health care. Mr. Speaker, this proposal is a positive step forward.

Earlier this year I introduced similar legislation that received bipartisan support. I would ask both sides of the aisle to support this.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I agree that small businesses need help for their employees. As a matter of fact, all consumers of health care need help. The 44 million uninsured in this country need help. Patients need access to primary care and to physicians.

What this country needs is a national health insurance, a national health policy that takes care of the needs of all the people. But what we need right now is to reform managed care. And the only bill that provides any real help for managed care reform, for real access for physician-patient communication, the only bill that moves us seriously in the direction of taking care of the immediate needs of millions of people in this country is the bipartisan Dingell-Norwood bill.

I would urge that all other items before us, while they may contain meaningful elements, really do not do the job. The only way to do the real job is to vote for the Dingell-Norwood bipartisan bill.

Mr. CLAY. Mr. Speaker, I yield 1½ minutes to the 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. Mr. Speaker, I know that the intentions of the gentleman were good with respect to the staggering numbers of uninsured Americans.

Forty-four million Americans lack access to basic health care, and 44 million Americans live in fear of getting sick. But what we must realize is that we must not give them a bucket of water with a leak in it. And right now that is what this legislation does. That is why we should stick to passing the Dingell-Norwood health care reform, a straight-up vote on giving the American people what they want.

I have a letter here, Mr. Speaker, that I would like to submit into the RECORD from a nurse and three doctors who said, ''We are mad as hell, and we are not going to take it anymore,'' Dr. Self, Dr. Zaremski, and Nurse Self. And the reason is because they were trying to express their beliefs on behalf of the patients and they lost their positions in the medical profession.

(September 29, 1999)

AN ''OPEN LETTER'' TO THE HONORABLE MEMBERS OF THE UNITED STATES HOUSE OF REPRESENTATIVES REGARDING MANAGED CARE LEGISLATION

(By Thomas W. Self, MD, FAAP, Linda P. Self, RN, BSN, Miles J. Zaremski, JD, FCLM)

September 29, 1999.

DEAR HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES: We hope that our remarks that follow will be able to be part of the floor debate that will occur on managed care legislation, scheduled for early next month. While we have endeavored to communicate with several of you, either by letter, phone or by in-person conferences with you or your staffs, we feel our individual, yet collective, wisdom on the underpinnings of this legislation before you is critical and important. Two of us have a unique experience not shared by other health care providers in our country. The other has considerable expertise based on experience and writings on managed care liability, what our courts have done with ERISA preemption, and what is likely to be done in the future by our judicial system. Two final introductory remarks. First, there is so much that needs to be said that brevity in our remarks could not be achieved. Second, while this letter comes from the three of us, we refer to each of us in the third person.

THOMAS W. SELF, *MD, FAAP.*
LINDA P. SELF, *RN, BSN.*
MILES J. ZAREMSKI, *JD, FCLM.*

Our plea comes not as Democrats, Republicans or members of other political parties. Our plea comes to you as a physician, nurse and lawyer, representatives of those at the crossroads of medicine, health care and law. Our plea comes to you also as people who are deeply and passionately concerned about the quality and delivery of health care for America's patients, all patients, and the legal and legislative efforts to do the right thing—insure fairness and accountability for parties and by those delivering health care.

To quote a famous line from a motion picture of some years back, the battle cry of patients is, ''We are mad as hell and we are not going to take it anymore!'' Patients and providers alike should not be subject to the grave inequities foisted upon them by what managed care has done to the delivery of health care. Linda and Tom Self are fitting and, perhaps, unfortunately, unique examples of what has to occur before managed care moguls will listen.

As a San Diego doctor trained at Yale and UCLA, who ran afoul of managed care and who was actually fired for spending ''too much time'' with his patients, Dr. Self is unique among health care providers in that he fought back against the medical group that fired him and won a three year ''battle'' that culminated in a three month jury trial. His victory is the first of its kind in the nation, and was profiled by ABC's ''20/20'', on August 6, 1999.

His experience, where managed care profit motives infiltrated and contaminated the professional ethics of his medical group, shows clearly the murky and often brutal influences wielded by HMOs which have only profit, not quality of care, as their goal. In this scenario, patients become ''cost units'' and doctor is pitted against doctor, undermining the very foundation of medicine and throwing to the winds the Hippocratic axiom, ''first of all do no harm.''

With the art and science of medicine controlled by managed care forces, it is not surprising that the number of patient casualties continue to soar. The ability of a clerk with no medical training, in the employ of a payor thousands of miles away, to overrule medical decisions of a trained physician is allowed in no other profession, but is the standard of practice under managed care! Furthermore, this type of employee and also the managed care entity which acts as the puppeteer behind the clerk are completely immune from any legal accountability when their faulty medical decisions cause patient harm. That this situation is allowed to continue is also peculiar only to the medical profession. This is unfair and inequitable!

As an experienced diagnostician with the reputation of being thorough and careful, Dr. Self was criticized under managed care dictates as a physician who ordered too many costly tests and as a ''provider'' who ''still doesn't understand how managed care works.'' Sadly, this situation continues nationwide, as more and more experienced doctors are unjustly censored, dropped from managed care plans or terminated from medical groups anxious to conform to managed care policies, leaving their needy patients feeling confused, frightened and abandoned.

This pillage and waste of medical resources (under the yoke of managed care which destroys the very quality and continuity so necessary for a positive outcome from medical treatment) is running rampant in America. Dr. Self and his wife have put their lives and their careers on the line to combat the wrongs caused by the health care delivery system called managed care. Now, representing, in microcosm, all health care providers, they turn to you as lawmakers, representing all past, present and future patients, to stop the horror and carnage by health plans by voting for the Norwood-Dingell bill, H.R. 2723, and restoring quality, decency and humanity to health care for the American people.

Linda Self, a registered nurse, is, like her husband, a healer. Always active in charitable activities, she returned to nursing full time four years ago to work with her husband when he lost his job. After being away from nursing for many years, she realized that her compassion and love for the art of healing was now even stronger, especially after raising two children, one of whom had a serious illness. Devoted to caring for children with chronic diseases and giving support to their families, she was shocked and unprepared for the massive de-emphasis on patient care that had been fostered by health plans. Linda realized that her commitment to people had not changed nor had the needs of such children—what had changed, and changed for the worse, was the indifference to patient suffering held by the managed care system. She realized that in order to care for sick patients and their families in the 90's, there is, and was going to be, a constant controversy with the managed care bureaucracy involving patient referrals, treatment authorizations and, above all, the daily need to appeal treatment decisions lost, delayed or denied by their patients' health plans.

As if also in microcosm to what other private medical practitioners face, this office ''busy work,'' in addition to the requirements of providing necessary medical support to sick patients, has created enormous frustrations among health care providers as well as increasing the costs of running a practice. Conversely, reimbursements from health plans have steadily diminished, regardless of the severity of the patient's illness or the increased amount of physician and nursing time expended.

Additionally, in her dual role as nurse and office administrator, Linda works daily to insure that patients receive the appropriate medical care they need and deserve without suffering the indignity and humiliation of having their health plans ignore, delay, or deny health care that is not only medically necessary, but for which the patient has already paid insurance premiums. This endless paper shuffle mandated by managed care without its cost cutting mentality further decreases the amount of time that a nurse can devote to patient care. This dilemma has driven competent and caring paraprofessionals from the medical field in droves, thereby further weakening the overall quality of medical care needed by patients nationwide. The resulting upswing in poorly trained, undedicated office personnel hired to replace the nursing flight has created a hemorrhage in medical care delivery which, if not stopped, will hasten the demise of American medicine as far as any vestige of quality of care which still remains.

Patients must not be considered commodities to be bartered by health plans. Payors must be held fully and judicially accountable wherever their pressures on physicians to curtail tests, delay or deny treatment plans,

or by clogging the wheels of medicine with mountains of paperwork cause patient harm. Therefore, Linda Self, speaking as a mother, a patient, and a nurse brings her experiences to the House floor and adds her plea to those of Dr. Self and Mr. Zaremski to bring dignity and salvation to the practice of medicine.

Those in the House, listen, as we have done for years, to the voices of the grass roots populace when they cry out for help and relief from a medical system that harms, not heals. Read, if you will, the numerous e-mails and other written communications from viewers of the ABC ''20/20'' program on Dr. Self and other well wishes after he and his wife's historic jury verdict, which we have included as a attachment to this letter. A sampling of quotations from these communications (emphasis added) follows:

''As an R.N. I have had similar experiences as Dr. Self concerning HMO's. He is the type of doctor HMO's do not want, since he actually takes enough time for each patient, and does the right thing. A warning to all patients: do not choose an HMO if you have a chronic or rare illness! They will hasten your demise; they are Goliath and you are David. . . . Until patients become better-informed and less passive about their health care, and until doctors start standing up, like Dr. Self, HMO's will continue to run over the patients they are supposed to serve.''—Sheryl W. McIntosh.

''Your August 6 piece on Dr. Self who was fired for ignoring his group's bottom line and putting his patient's needs first was excellent. This is happening more frequently than people realize. Only when people have access to information like you provided—or when they get sick and learn firsthand—do they realize how corporate managed care has affected American lives. I hope you will talk to other medical caregivers and deal with other facets of this complicated problem.''—Francis Conn.

''This might be just the tip of the iceberg. Our health care should not be treated as a commodity, i.e., something to make money on at your or my expense. Neither should it be a political football where the vote goes to the place with the most political donations . . .''—James A. Eha, M.D.

''. . . At first HMOs were VERY good but every single year that passes it get volumes worse. Now, it is so hard to get a referral, a prescription, a test or an office visit. . . . My husband has to take off work because you have to take the appointment they give you. . . . They make it nearly impossible to get care. They have those drug lists that they are always changing so the doctors are changing your meds all the time making you very sick. They do not allow doctors to do their jobs . . .''—Diann Wolf.

''An identical story happened . . . with my brother who is a family practitioner. . . . He dealt mostly with AIDS patients and the HMO found that to be too costly. He and his fellow practitioners in his office decided to leave the medical practice and regroup mentally to figure what to do. They had spent many months without pay at all due to the methods of saving costs by the HMO. . . . and just so the HMO's could make some money, good doctors are leaving the profession.''—Michele Drumond.

''. . . For the past 11 years I have cared for people in long term care. . . . just imagine the lack of incentive there is for good care of the elderly or disabled. Many newer meds are not covered as they are not cost effective . . . patient loads rise but staffing does not, rules and regulations of documentation rise, staff does not nor does equitable pay. The diagnosis to dollar mentality is ripping the caring soul and commitment out of medicine. Everyday I ask God to give me both compassion and wisdom in my job, but my soul feels that the battle of excellence in care and cost will always be won by cost. I feel called to this job, and just have to do what I do the best that I can, but NEVER would I want any of my four children involved in direct patient care. the physical, emotional and psychological load is becoming too great!! I strongly believe we will see life expectance decline . . .''—Barbara Harland, RN.

''. . . I work for a doctor's office . . . I do all referrals, authorizations and surgery precerts for our patients. It has become a nightmare to approve any surgeries without going thru the third degree for patients. They can't begin to realize what we in the ''field'' go thru to get these things approved . . .''—Susie Wallace.

''''There are men too gentle to live among wolves' to a gentle and courageous man & woman [Tom and Linda Self].''—Brian Monahan.

''. . . It is a great irony that, after a generation of tremendous growth of our knowledge and our ability to care for patients and diseases in a manner far better than we ever could before, greedy companies are seeking to limit our doing so. . . .''—Herbert J. Kauffman, M.D.

''. . . I deeply respect what you've accomplished and appreciate the way in which your victory benefits patients and those of us who choose to treat patients according to sound clinical decision-making versus adherence to the masters and dictates of those more concerned with profit than quality patient care . . .''—Robert Alexander Simon, Ph.D.

''. . . Seven years ago I was hired as a homecare Social Worker. . . . Then, managed care entered the scene—frequently denying approval for a social-worker's services. Since urgent social worker intervention was often necessary with our patients, there were many times that I was dispatched to the patient's home to provide emergency services . . . only to later receive a ''denial of payment'' from the managed care company . . . [Hospital] required me to find any excuse possible to visit those patients whose insurance would pay, and would cram as many patients as possible every day into my schedule. It was all so very, very wrong. For months this unethical practice tore me apart—and eventually made me very ill. I quit my job. . . . I had been forced to compromise my ethics in order for [Hospital] to maximize their profits. I applaud your courage, and I just wanted you to know that I am proud to be the parent of one of your patients.''—Ruth Bronske.

''You stood tall for yourself and set a perfect example for the rest of us. I am so pleased.''—George Jackson, M.D.

''. . . Congratulations on winning your lawsuit! Truth always comes out triumphant. Hopefully the HMOs . . . of the world will put the patients' interest first and the bottom line at the bottom as it should be from now on. . . .''—Faith H. Kung, M.D.

''. . . Dr. Self stuck his neck out and he lost his job, but he stood up for what he believed in and hopefully other doctors will do the same. He should be commended for what he did. I hope . . . that if something really bad ever happens to me and I need tests run or extensive surgery done, the doctor better not look at what kind of insurance I have rather than giving me the best medical attention I need that could save my life . . .''—Kim Lewis.

''. . . I have quit the medical field in the past month because medicine is no longer about patient care and needs. It is only about how much money can be made off of them. Thank you for letting me see it is not just the employee that is affected!''—Linda Copp.

As a legislator, you can therefore appreciate first hand, the anger, frustration, and hopelessness expressed by your constituents such as what we have quoted above. Then, recall the quote by Margaret Mead, ''Never doubt that a small group of dedicated people can change the world. Indeed, it is the only thing that ever has.'' The ''rank and file'', the grass roots populace is, we think, what Ms. Mead had in mind when it comes to health care in our country.

The third major thrust of our letter pertains to the three of us having seen and heard the disingenuous expressions of opponents of what patients really need and which is embodied in the Norwood-Dingell bill. First, we have heard that lifting the ERISA preemption will cause employers to terminate health plans for their employees, that lifting this so-called shield will cause premiums to increase and that trial lawyers will gain an avenue to sue. To all of this, and with all the passion we can muster, we say, ''absolutely not!''

First, ERISA, enacted in 1974, had nothing to do with shielding managed care plans from accountability for their medical decision-making process. There has never been anything in the legislative history on ERISA having to do with this subject. The American Bar Association, not known at all for representing trial attorneys, voted last February 302–36 to lift the ERISA shield.

Next, allowing for accountability by health plans to patients, as contained in H.R. 2723, provides for real equity in distributing responsibility to all those persons and entities involved in the medical decision-making process. This does not mean increased or additional litigation! The liability exposure to managed care entities that would exist with removal of the ERISA preemption shield will force these entities to insure improvement in patient care, by, for example, not allowing clerks to override physician treatment decisions, providing a review process to all treatment denial determinations, etc. As a result, the number of bad-outcomes leading to litigation will likely decrease, leading to less litigation. And where bad-outcomes do occur, allowing direct suits against health plans will not create more lawsuits, but will rather lead to roughly the same number of lawsuits—with one additional defendant. This one additional defendant will better allow a trier of fact to equitably distribute liability to the persons and entities responsible for the harm. In the end, there are fewer bad-outcomes, less litigation and better equity in the distribution of fault.

Alsi, realize that H.R. 2723 provides for accountability and responsibility of health plans according to state laws. State courts are where this area of responsibility and accountability for health plans should reside. For example, if your state has ''caps'' on the amount of money that an injured person could receive, such as in California, then those caps would equally apply to exposures faced by health plans.

And if the Texas state statute on holding HMOs responsible is any example, fears of increased litigation are totally without any basis in fact. In the three years since that state's law was enacted, there have been less than a handful of cases filed against health plans in that state. Also, in joining with Georgia legislators, the California[1] state assembly of 80 members (overwhelmingly) passed legislation recently providing that HMOs can be held accountable for their medical decision-making. On September 27, 1999, Governor Grey Davis signed into law this legislation, and, in so doing, stated, ''It's

[1]California is said to be the ''birthplace'' of managed care.

time to make the health of the patient the bottom line in California HMOs.''

In conclusion, we implore each and every one of you to do the right thing. Vote your conscience by voting for the rights of each and every American who has been, or will be, a patient in our health care delivery system. Remember that a person's health is unlike anything that can be bought, traded, negotiated or sold. Don't hold hostage human sickness and injury to a ''bottom line'' mentality. Keep in mind the words of a colleague in medicine who wrote Dr. Self after his jury verdict, ''The rewards of being a doctor are largely measured in identifying what is best for the patient and then having to do what one believes is correct and best for the patient.'' Again, we reiterate the quotation by Mead: ''Never doubt that a small group of dedicated people can change the world. Indeed, it is the only thing that ever has.'' In passing H.R. 2723, each one of you will heed her message, and, accordingly, insure that the tendrils of greed and disregard for legal accountability in managed care will no longer be able to find fertile soil in which to take root and grow.

Thank you.

Sincerely,

THOMAS W. SELF, *MD, FAAP.*
LINDA P. SELF, *RN, BSN.*
MILES J. ZAREMSKI, *JD, FCLM.*

This particular legislation gives tax benefits to the uninsured, but nearly two-thirds of the uninsured population are in the 15 percent tax bracket, which means they only receive a 15 percent relief. We are talking about poor people, working people, Mr. Speaker, who cannot afford any sort of excess funds to buy the insurance and then others are already on Medicaid. This is an important issue to ensure that those who are uninsured get health coverage.

But, Mr. Speaker, we need deliberation. We need hearings. We need the opportunity to do the right thing. Let us just vote for the Norwood-Dingell reform bill.

Self-employed taxpayers may deduct payments for health insurance. The deduction cannot exceed the net profit and any other earned income from the business under which the plan is established. It is not available for any month in which the taxpayer or the taxpayer's spouse is eligible to participate in a subsidized employment-based health plan.

These restrictions prevent taxpayers with little net income from their business, which is not uncommon in a new business, or in a part-time business that grows out of a hobby, from deducting much if any of their insurance payments.

What about the 12.5 million people who do not pay income taxes? What about the 12.5 million who work on low wage jobs, those who do not make enough for health coverage?

In 1996, close to 33 percent of the U.S. residents were living in poverty or near poverty. Twenty percent of all households had incomes below $14,768 per year. Among the near poor, those who work on low wage jobs, 35 percent of all men and 29 percent of all women are uninsured. Whites account for close to 27 percent, African Americans account for 55 percent, Hispanics account for 60 percent and Asian Americans account for 31 percent of the uninsured.

What about the woman who called my office last week who had cancer and congestive heart failure? She was dropped from her insurance when she became a widow. She was worried about the high cost of her prescriptions that she is unable to afford. She was worried because she receives samples from her doctor and she wonders how long his good will can last.

What about the Hispanic family with several children? Although both parents work, they do not make enough to afford health coverage. One of the children has developed a serious illness and needs to be hospitalized. The child cannot survive without the operation and the parents cannot afford to pay for it.

What about the woman who just discovered a lump in her breast. She is nervous because of the lump, but she is more nervous because she has no health insurance. She cannot go to a doctor for screening and she cannot afford a mammogram.

What about the man who went to the emergency room because he became ill and discovered that he had diabetes? In addition to the bills he accumulated because of his hospital stay, he also has to pay for insulin and other supplies to manage his condition.

These are the people that need our help. These stories only represent a few of the people that need access to health insurance.

Like many of my colleagues, I received many letters from businesses in support of this bill. I am sensitive to the needs and concerns of small businesses. I understand the various costs associated with running a small business and I respect the entrepreneurs that want to provide health insurance to their employees.

Many of these employers want to do the right thing. However, this bill does not benefit the small business owner, nor does it benefit the employees. This bill will only benefit the insurance companies and wealthier Americans.

I urge my colleagues to vote against this bill. We need to go back to the drafting table to come up with a better plan for these 44 million Americans. Let's offer some real reform for those working families and their children.

Mr. CLAY. Mr. Speaker, I yield the balance of my time to the gentleman from Tennessee (Mr. FORD).

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Tennessee (Mr. FORD) is recognized for 1 minute and 20 seconds.

Mr. FORD. Mr. Speaker, although I applaud the Republican realization that improving access to health care is vital to all Americans, I must oppose the bill.

The Census Bureau, as we all know, has reported that more than one million people last year, and now the number is up to 44 million people, are without health insurance. In my State of Tennessee, close to three-quarters of a million people are without health insurance. That amounts to about 15 percent of the State's population.

As a healthy 29-year-old male with a comfortable income, I would be eager to set up a medical savings account, which is one of the features of this proposal put on the floor today. However, this would help far too few of my constituents. It would hurt the poorest working people who have plans with the smallest deductibles. Eleven million children nationwide are without the basic care afforded to prison inmates in America. The most disproportionate groups of Americans uninsured were women and the working poor.

The Republican access bill does nothing to alleviate the problems of the working poor and children have in gaining health insurance. The main provision of the access bill is an expansion of medical savings accounts. This assumes that those without health care have enough money to save or are healthy enough to wait for interest to accrue.

The access bill also contains two other troubling provisions, the Associated Health Plans and HealthMarts. Each would allow insurance companies to bypass State laws and regulations, allowing plans to select the young and the healthy from the State-regulated markets. This would drive up the premiums for the sick and the old.

This $48 billion, which my dear friend says this will cost, again represents another raid on the Social Security Trust Fund. The $792 billion tax scheme they are attempting to pass cannot be paid for without dipping into the trust fund, and neither can this.

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

Mr. Speaker, this is about people who do not have health insurance. Let us remember who they are. Three-quarters of them work for small businesses or they are dependents of people who work for small businesses or they own small businesses. They are our friends. They are our neighbors. They are people who have been down-sized by big companies and who have had to go to work as consultants. They are people who have retired from companies who are not old enough yet for Medicare. They are people who have histories of illnesses, and they cannot get insurance on the individual market unless they want to pay $1,000 or $1,200 a month.

I bet everyone in this room is somebody like that or knows somebody like that. We know who the uninsured are. And we can help them. We can help all those people who are working for small businesses that cannot afford to provide them with health insurance or cannot afford to provide it at a cost that they can afford, and we can do it with Association Health Plans that allow small businesses to pool together just the way big businesses do and buy health insurance for groups of thousands and thousands of people across this country, with all the efficiencies that that means, without the insurance companies' marketing costs and the profit margin and with the efficiencies of a big pool.

We have studied this bill a number of years. We passed it in the House last year. We can make a difference for people who desperately need to have us make a difference for them.

What are the reasons given for not doing this? It costs too much. Well, the Associated Health Plans do not cost the Government anything. The rest of

the bill costs $8 billion over the future 5 years. We paid $20 billion in agricultural relief over the last 2 years. I supported that. I thought that was important.

Everybody in this House, the White House, and most of the people here want to pass a tax cut of at least a couple hundred billion dollars. So we cannot spend $8 billion helping the uninsured? We cannot afford not to help these people who are sick.

The Association Health Plans are not safe. The reserves are not high enough. We met every objection of the American Academy of Actuaries. These are going to be fully regulated by the Department of Labor or by the States if they want to. The insurance companies do not like it. No, the insurance companies do not like Association Health Plans. We will have to live with that. It increases costs to small businesses and farmers.

Tell that to the coalition of 90 small business people and farmers who support this bill because they know it will reduce their costs and enable them to make health insurance available.

It is only for the healthy. Mr. Speaker, it is precisely the ill people who want to get in big groups. That is why they like to work for big businesses. They are the ones who will be benefited by Association Health Plans.

And then the one I cannot understand more than any of the others: it is only for the rich. Only the rich people are going to benefit from this.

Well, tell that to Lasette Lopez, who my friend from California talked about. Her mom is a migrant worker. She got a heart transplant and she is alive because of a State Association Health Plan. I do not think she is rich. Tell that to Linda Welch-Green, a report in the Baltimore Sun today, who works as a cashier at a garage. She would be able to get her health insurance under this and get her Bell's Palsy taken care of. She is not rich.

Let us forget about those tired old arguments, the old class envy thing that gets brought out every time we try to do something good for America. Let us help these people. This is the only opportunity we are going to have to do that. It is a real opportunity. We have studied it long enough. We passed it last year. Let us pass it now and send it over to the Senate and insist that they do something for our friends and our neighbors who do not have health insurance and face the risk of illness every day without it.

Mr. STARK. Mr. Speaker, I yield myself 3 minutes.

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

Mr. STARK. Mr. Speaker, I do want to remind my colleagues that this bill is the penultimate waste of taxpayers' money.

The Joint Committee on Internal Revenue Taxes, a committee run by the Republican majority on the Committee on Ways and Means to estimate the cost and benefits of tax bills, has estimated that there will be a grand total of 160,000 uninsured individuals who could possibly benefit from this bill, 160,000 people, I say to the gentleman from Missouri (Mr. TALENT), at a cost of $48 billion over 10 years.

Mr. Speaker, would the gentleman from Missouri (Mr. TALENT) like to respond to a question?

Why does he think it is so important to spend $48 billion to help 160,000 people? Because that is all this bill does.

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

Mr. STARK. I yield to the gentleman from Missouri.

Mr. TALENT. Mr. Speaker, there are 44 million people who are uninsured.

Mr. STARK. Mr. Speaker, reclaiming my time, but according to the Joint Tax Committee, only 160,000 people who are uninsured will receive any benefit.

Mr. TALENT. Mr. Speaker, if the gentleman will continue to yield, the Association Health Plan provision in the bill about which I just spoke will, conservatively speaking, provide health insurance to 48 million people who currently do not have it.

I would say to the gentleman, if there is a chance that this bill can provide help for these people, it is a chance that we ought to take. I would ask the gentleman why is he not willing to do that on behalf of these people.

Mr. STARK. Mr. Speaker, I am not willing to waste $30,000 a year per family to pay for it because the insurance is not worth that much. This is squandering the taxpayers' money. I will repeat what the Joint Committee on Taxes has said.

□ 1545

That the total people benefiting from this bill, while there will be 12,400,000, all of them already have insurance. There are only 160,000 people who are eligible who are uninsured.

So we are spending, I just want to repeat, we are spending $48 billion to help 160,000 people. They may each insure two people so to give my colleagues credit, I will say it is 320,000 people. That is a cost of $15,000 a head, $30,000 a family, for 10 years. My colleagues could buy them a hospital and a doctor for that kind of money.

The Republicans just do not know what they are doing. They are squandering the taxpayers' money.

I just want to remind everybody, $48 billion to help, according to the Committee on Ways and Means, Republicans-controlled Joint Committee on Taxation, there are only 160,000 people who are uninsured who qualify. That is ridiculous.

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

Mr. Speaker, as the House prepares now to consider legislation on liability and lawsuits, it is important that we consider that there are 44 million Americans who lack even the basic coverage of today's health plans.

What we do in this health access bill will keep many of them from falling into the uninsured. It will, furthermore, qualify more and more people who work, who are self-employed to be able to have access to plans. It will level the playing field within the Tax Code for everyone.

The gentleman from California has just said we are squandering the taxpayers' money. Far more billions of dollars are going out for the deductibility of employers who are providing health insurance today. They get a tax deduction. Why should only the employer get a tax deduction? Why should not the self-employed get an equal tax deduction? And why should those who pay their own premiums, without the benefit of an employer's program, not also get a deduction?

This is equity within the system, as well as making insurance more affordable for all of those people.

This bill also is not just about that type of insurance. It is about long-term care, which is a medical concern of a different sort for more and more millions of Americans, and greater access to long-term care, helping those people who are taking care of the elderly in their own home by giving them an extra tax exemption.

Now, the gentleman from California says that is squandering the taxpayers' dollars. I dare say to those families who are taking care of the elderly in their homes, that to get a little bit of tax relief is certainly not squandering the dollars that are coming in to Washington.

The 44 million people will increase that are uninsured unless we address the barriers to access. This bill is a first step to do that. It is not the ultimate answer, but these barriers are preventing Americans from getting affordable care at a rate of nearly 1 million a year; and, frankly, all the lawsuits in the world will not add anything to help a worker struggling to buy health insurance for his or her family or struggling to maintain their elderly in their own home.

The best patient protection of all is health insurance, and our plan is the only one before the Congress that helps families get the coverage and the care that they need.

Our plan is based on three fundamental principles: Affordability, accessibility, and individual choice. A major source of America's frustration with HMOs is a lack of control, which both patients and doctors feel. Patients want to be able to pick up the phone and get an appointment to see their own doctor. Doctors want more time with their patients and to treat them as they see fit.

Answers to these frustrations, however, are found when we empower people, not lawyers. Our plan helps make health care available and affordable for every generation. Baby-boomers caring for elderly family members at home will get help from our tax breaks, as I mentioned. We even help them plan for

their future and the long-term care that they may need through deductions for the purchase of long-term care health insurance.

A new family will also get help with its health insurance costs, costs that have outpaced average household income last year by nearly two-to-one. And small businesses, which create 95 percent of new jobs, will benefit with accelerated deductions for the self-employed, so start-up companies can offer competitive benefits to attract and retain the best workers.

Finally, nothing embodies the vision of choice and accessibility more than medical savings accounts. Expanding MSAs will give consumers more control over their health care dollars, offering them the freedom to consult any doctor they choose to lower their deductibles or premiums and to save any unused funds for future health care expenses. With MSAs' patients and not insurance companies, not a third party payer, controls the choices. There are no gatekeepers, and there are no middlemen.

More Americans are using medical savings accounts because they put patients back in charge and not insurance companies. In fact, 28 percent more Americans opened MSAs last year. That means that thousands of Americans who previously had no health insurance are now covered because of MSAs, and that is our top priority.

By the way, this is $9 billion of revenues over 5 years, not the $50 billion that we have heard over and over again from the other side. After all, the House budgets only for 5 years, and they have been prepaid by the American people in the form of a projected surplus that will be close to $300 billion over the next 5 years; $8 billion out of $300 billion, and that is all according to the Congressional Budget Office.

Are Democrats now saying that they are not for any tax relief whatsoever, even to help low- and middle-income Americans get health insurance? Are they opposed to giving some relief for those caring for their elderly relatives at home?

I would remind my colleagues what Senator BOB KERRY, a Democrat, said, and I quote, to suggest that we cannot afford to cut taxes when we are running a $3 trillion surplus is ludicrous, unquote.

In closing, let us not lose sight of the real health care problem facing Americans and their families today: Lack of the most basic patient protection of all through health insurance. And while accountability in health care is an important aspect of the managed care debate, there are 44 million reasons why Republicans are broadening the focus to include affordability, accessibility and individual choice. Americans want more ambulances, not more ambulance chasers, and they want to spend more time in front of their doctors and not in front of a judge.

This bill is the right kind of health care reform, and I urge a ''yes'' vote.

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

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

Mr. Speaker, I wonder if the gentleman from Texas (Mr. ARCHER) would indulge me and respond to a question. I had stated that over 10 years this bill would cost, just for the tax deduction, $31 billion.

The gentleman is quite correct, for 5 years it would cost less, but in the outyears the cost goes up.

Is it not correct that there would only be 200,000 uninsured people, or 100,000 insured individuals, policyholders, who would benefit from the tax, according to our own Joint Committee on Taxation?

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

Mr. STARK. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, the gentleman appears to be quoting the Joint Committee on Taxation for his numbers, and I have requested the Joint Committee on Taxation to give me the basis of that, and they say they have no knowledge of that. So there is some misunderstanding relative to those figures.

Mr. STARK. I will be glad to share with the gentleman those figures, and perhaps we can discuss it later.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I think the whole country now knows the substance of the bipartisan bill, the Norwood-Dingell patients' rights bill. I think all over, people are saying that the patients' rights should be determined by physicians and when that does not occur and when there is liability that they should have the right to sue.

I think that there are enough people on the other side of the aisle that have decided that this was the right, this was the decent, and this was the moral thing to do.

I think that both the majority and minority have come to believe that now the majority of the Members of the House were going to vote on the Norwood-Dingell Patients' Bill of Rights, and every editorial indicated it would pass and the President would sign it into law.

We wondered what little tricks anyone could come up with; what could they possibly do and what could they pull out of this hat of tricks that they manage to come up with from time to time? They could spread EITC further and not give the poor folks what they are entitled to when they work every day. They could look for the thirteenth and the fourteenth month. They could start determining that everything that came up they could not pay for was an emergency. But we never, never, never thought that they would just pull out of the hat a tax bill that never came out of the tax-writing committee.

I say a tax bill that never came out of the tax-writing committee because I am led to believe that the provisions that are in this health access bill came out of the conference the Joint Committee on Taxation had, that is the Republicans had, and that no Democrats were involved in it, except to vote against it.

So why would they take a bipartisan bill that Republicans have worked hard on and try to attach this poison pill to it, knowing that it is not paid for? It can be said that it is $9 billion, it is $12 billion; it can be said that it is not $40 billion or $50 billion, but if the President has promised that if it is not paid for he is going to veto it, then I guess the only answer to the senseless, committeeless bills that have come out to the floor from either the Committee on Appropriations or the Committee on Rules is that the majority has decided that it really does not intend to legislate at all. What it intends to do is to send out political statements so that the President of the United States can fulfill his commitment to the American people and to veto those bills that are not funded.

It is not fair. It is not fair to do this for a bill that my colleagues know we have the votes to pass in the House of Representatives.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, again I find myself on the floor in another debate about freedom, the basic principle of democracy. To debate over freedom means to choose the quality health care that one wants.

This bill permits all individuals access to health care by expanding medical savings accounts. Medical savings accounts allow all Americans to have the freedom to choose their own doctor and decide, with their doctor, what sort of medical care they need.

My colleagues will notice that medical savings accounts have been expanded by more than 28 percent last year. We need to allow them to choose. The best way to provide health care to every American is not to add government regulations but to lift the regulations that prevent people from getting quality care.

I believe the path to good medicine and health care should pass through the doctor's office, not the lawyer's office.

I think that it is important for us to help people learn new innovations, and this bill also contains a medical innovation tax credit which helps our teaching hospitals and research facilities continue their fight to find cures for deadly diseases such as cancer.

The American people have said they want control over their own health care. The answer to this problem is to give every American the freedom and control to choose their own doctor and medical savings accounts, and this legislation will do just that.

□ 1600

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from California for yielding me this time.

Mr. Speaker, every Member here is concerned about the rising number of uninsured Americans, now more than 43 million; and we recognize that steps must be taken to address this problem. But H.R. 2990 is not the answer. This bill does very little to reduce the number of uninsured. Instead, its sponsors are proposing a new set of tax breaks that would help those that are least likely to be currently uninsured, as my friend from California pointed out.

It also contains many provisions that will hurt us in covering people with insurance. The Health Association Plans that the sponsors brag about, there is a reason why the National Governors' Association and the National Conference of State Legislators are opposed to it, for it preempts these plans from State reform. Under the guise of helping small business be able to find health insurance, instead what we are doing is preempting State reform.

And I could tell my colleagues in my own State of Maryland we have a small market reform; it is working. Small employers can find affordable health insurance. If we pass this provision, we have destroyed the Maryland small market reform, and we are going to have less people insured by small employers in our State if that provision becomes law.

But let me tell my colleagues the real reason, the most important reason, why we should oppose this effort. If we want to pass a patients' protection bill in this Congress, if we want to provide help to our constituents from the practices of HMOs, then we need to defeat this bill. The unfair rule that we are operating under marries this proposal with the Patients' Bill of Rights, and if this becomes part of the Patients' Bill of Rights, it is much less likely that we are going to enact a Patients' Bill of Rights in this Congress. That is why this rule was passed in the way it was, and that is why this bill is on the floor today.

Mr. Speaker, if we are serious about expanding access, let us work together to do it. This bill will not do it. I urge my colleagues to reject it.

Mr. CRANE. Mr. Speaker, I yield 1½ minutes to our distinguished colleague from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my friend from Illinois for yielding the time, and I thank my friends on the left for offering a clear choice today, because really this comes down to a simple question: Who do you trust in terms of health care?

One of the reasons I left private life and ran for public office is because those on the left favored big government to run health care, take power out of the hands of patients, put that power in the hands of Washington bureaucrats, and that is being reaffirmed, Mr. Speaker, even while those on the left offer their incisive legislative analyses of why there is a poison pill attached to this.

Mr. Speaker, how on earth can putting power in the hands of patients to choose the doctors they want through medical savings accounts, how on earth can that freedom be regarded as a poison pill?

I rise in strong support of this legislation, mindful of the fact that nearly one-quarter of the population of Arizona is uninsured, and I wish my friends in the minority would come with me to Show-Low, Arizona, to hear the people of that town say give us medical savings accounts, give us the ability to choose health care for ourselves, we need that help; and I wish they could hear the pleas in the town hall meetings I attend where the self-employed say give us 100 percent deductibility on health insurance, the same provisions the big boys have.

That is what this legislation does, and association plans, it is interesting to hear my friend from Maryland, they cannot have it both ways.

Mr. Speaker, if my colleagues want to federalize health care in one arena and then criticize accessibility to insurance through Association Health Plans, there is something there that cannot be reconciled.

Stand for the people, stand for freedom, stand in favor of this legislation.

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

I suspect, Mr. Speaker, that the gentleman from Arizona, like myself, gets his health insurance from the Federal Government, and I do not hear him complaining about that.

Further, Mr. Speaker, I would just like to remind my colleagues that at a cost for these 200,000 uninsured people of 15,000 a year, the Speaker would have to have a breakfast to raise money from lobbyists several times to be able to get enough money to pay for the cost of this health plan.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, this so-called access bill is in truth a smokescreen, so flimsy that it is easy to see through. Its main effect would be to sink Dingell-Norwood, not help the uninsured. It is about access of the majority to special interests and their access to the majority far more than it is about access of 45 million uninsured to health insurance.

Mr. Speaker, that is clear because, number one, according to the analysis of the joint task committee, and I am sorry the chairman of the committee is not on the floor; here is the letter dated October 6 from the Joint Committee on Taxation that is under the control of the majority. It says that this bill would help 160,000 taxpayers, only 1 percent of the uninsured. Ninety-nine percent of the uninsured would be left high and dry while giving a tax benefit to those already insured, and the higher one's income, the more would be the tax benefit.

Number two, it is not paid for, and it is going nowhere.

Three, the majority have refused to allow the minority to present an amendment to pay for the cost of Dingell-Norwood. They say they are doing that because the amendment would not be germane. What is not germane is the inability and unwillingness, not the inability, but the unwillingness, of the majority to make this amendment germane. The majority claimed there was no consideration in committee of the Democratic paid-for proposal, but all but two parts of it were in the Republican tax bill that passed this House, and the other two were in a proposal presented in the Committee on Ways and Means by Democrats.

The best answer is a large vote for Dingell-Norwood and place the Republican leadership in a quandary as to what to do next to thwart the will of the American people. Let us give a resounding vote to Dingell-Norwood.

Mr. CRANE. Mr. Speaker, I yield 1½ minutes to our distinguished colleague from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I rise today in support of the Quality Care for the Uninsured Act, a bill that will address the most critical issue facing our Nation's health care system today, that is, the issue of access. The total number of uninsured Americans in the United States today is 44 million people, 706,000 people in my home State of Washington. As we proceed with this debate, we must remember that maintaining the world's finest health care system is a balancing act. How do we sustain the quality of health care that most Americans enjoy and still extend the benefits of that system to those who lack coverage?

The first principle we must accept is that the marketplace, not the Government, must be the focus of our support efforts. Our health care system is the envy of the world, and American businesses, hospitals and researchers are on the forefront of medical innovations that are bringing a better quality of life to the people of the United States.

In my home State of Washington hundreds of companies are researching new ways to combat illnesses through biotechnology, through new medical devices, and through automated testing. Many of these treatments will be the foundation of a new health care system, one that increasingly relies on groundbreaking technology to replace traditional treatment methods. We must not overly burden this system with new costs that will lead to more uninsured Americans or redirection of precious resources away from investing in critical new technologies. Helping people purchase private-sector insurance is the most important first step we can take to improve our system.

Mr. Speaker, the American people need access to coverage that keeps

them healthy more than they need mandates to government. Please support this bill.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, on the way in here I met a reporter from one of the major newspapers that said what is going on up on the floor? Why are they adding that access stuff to the perfectly good bill that the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Iowa (Mr. GANSKE) put together? I said, well, they are just trying to avoid for one more time addressing the issue of the uninsured in this country.

This bill will do absolutely nothing. Less than 1 percent are affected at all. If my colleagues were serious about the tax break, they would make it a refundable tax break. The gentleman from California (Mr. ROGAN) and I put in a bill that said give a 30 percent refundable tax break, but they did not do that because they did not want to help the people on the bottom.

In the census data they talk about, they talk about people who make less than $25,000 in this country. One out of four is uninsured, and this bill does nothing for those people. So they simply are not serious about access.

Now I believe that the reason this is out here is because the polling must be real bad. They took all that credit for beating the President who wanted to give affordable health care that could never be taken away. They said we killed it; we are going to let the private sector take care of it. Well, Mr. Speaker, the private sector has now put them in the position where it is not 35 million who do not have insurance; it is 44 million who do not have insurance. That is why we have Medicare, my colleagues.

Forty-nine percent of seniors had health insurance in 1963. Today 99 percent of the people have it. They got it because we had a government program run through the private sector, private doctors, private hospitals, and what this bill will do; and I kind of hope it passes because I know it will fail because what they are doing is cutting up the insurance pool, and it is ultimately going to fail, and we are going to have more people uninsured.

The gentlewoman from Washington (Ms. DUNN) talks about it helping her State. There is no individual insurance available in the State of Washington. So if someone tries to buy it, they cannot buy it. We can have all the tax deductions in the world, and we will not get a single dime.

Vote no on this.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in strong support of this package, and I will say some of the conversation from the other side of the aisle is suggesting if it is not my idea, it is not a good idea.

I happen to be a cosponsor of Norwood-Dingell, and I support this package. I have worked with the great Governor Lawton Chiles in Florida, and we came up with similar proposals when I was in the legislature. We talked about expanding access. There is a problem of uninsurability, there is a problem with fewer people becoming enrolled, and there is a crisis of cost shifting. Hospitals, uninsured, all these programs are helping to raise premiums because fewer are insured.

My colleagues, we can do both today. We can pass good health care legislation as prescribed by Norwood-Dingell, but we can also talk realistically about some tax cuts to make insurance more affordable.

Now the President goes out and campaigns on giving tax deductions for elder care, and from the other side of the aisle we hear applause. But if it is a Republican idea, it is stupid, it is bankrupting the system, it is too expensive.

My colleagues, let us stop the rhetoric. Let us help average Americans. Let us get out of this chamber, this echo chamber of hostility, and pass some real legislation. We do have a chance to do both today. Do not shirk from the responsibility and the opportunity.

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

Mr. Speaker, I am pleased to help 160,000 Americans to the tune of $48 billion. That is real help to the average taxpayer.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I rise today with great concern. I am deeply concerned that millions of Americans are without health care. I am concerned that parents cannot afford to take their sick children to see a doctor. Too many of us are more worried about insurance companies than patients' care. We are more concerned with managing liability than caring for those who are sick and weak.

This is not just, this is not right, this is not fair. Access to health care is a right.

Mr. Speaker, we need to pass a meaningful Patients' Bill of Rights. We need a bill that will hold insurance companies responsible. We need a bill that will give patients the right to sue in State courts.

□ 1615

We need to do what is right. Let us not jeopardize this remarkable opportunity we have worked so hard and so long to build. My colleagues, the people of America are counting on all of us.

Mr. Speaker, let us work together to pass one of the most important health care bills in our lifetime. Now is the time, not next year, not next month or next week, but now is the time to pass a Patients' Bill of Rights, without poison pills.

Let us do what is right. Do it for the American people. Do it for the 40 million without any health insurance, without health care. Pass this bill for the people. Pass the Dingell-Norwood bill.

Mr. CRANE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, my State of Illinois saw its ranks of uninsured increase from 12.4 percent in 1997 to 15 percent in 1998. That is disheartening and unacceptable, and we want to see what this Congress can do to address the problem. We have before us today H.R. 2990, the quality care for the uninsured, which is intended to reduce the ranks of the uninsured.

Much to the disappointment of some of our colleagues on the other side of the aisle, it is not drafted to create a Federal takeover of our health care system. Rather, it is intended to help hard-working uninsured Americans afford health insurance for their families and it will solve the problem, at least better than it is being addressed today.

Will it do all? Probably not. But let us give it a chance. This bill contains provisions that our small business community tells us will go a long way in bringing more Americans under the protection of health insurance so they do not have to fear financial ruin as a result of a medical crisis.

I urge my colleagues to support H.R. 2990 and help the 44 million Americans who have been ignored for too long.

Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong support of the health access bill before us today. It is interesting, the Norwood-Dingell bill is not before us. We are talking about another piece of legislation that is directly focused on trying to cover more of the uninsured.

Just two days ago the Census Bureau told us that 44.3 million Americans now do not have health insurance in the years 1998 and 1999. That means there are about 1 million more uninsured since 1997.

That is disheartening, that in this time of relative prosperity we do have about 16 percent of our population without insured access to health care. That is what this bill is all about.

About 161 million Americans get their health care coverage through their employers, and, of course, many of those are small employers. We all know small business, self-employed people, typically operate on very tight margins, making health insurance very difficult for them to afford. And as we debate the managed care issues before us today, we have to be sure we are not increasing the ranks of the uninsured, by increasing the potential for liability, by increasing the Federal mandates, by increasing the costs and burdens of health care.

The essential provisions of this health care access bill will go a long way towards seeing that not fewer, but more Americans receive insured access

to health care. That is why this is so important.

It has a lot of good provisions on the tax side. Taxpayers who pay more than 50 percent of the costs of their premiums that the employers are not picking up will now be able to deduct 100 percent of that premium cost they incur that is.

This is a good idea. Over 7 million people now need long term care insurance. We now think that by 2050 that number is going to be about 20 million Americans. This bill addresses this problem by providing individuals who purchase long-term insurance with 100 percent deduction.

Mr. Speaker, there are so many other good things in here that will focus on the issue of trying to get more access, including medical savings accounts, new drugs to find cures for diseases. This is the right prescription to making our health system work better.

Mr. STARK. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from California (Mr. BECERRA).

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

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, over 44 million Americans do not have health insurance, yet this bill that we have before us by the majority wants to spend $48 billion to cover 160,000 of those 44 million Americans who do not have health insurance. It is also a bill that leaves the uninsured out in the cold, not just because it does not cover enough of them, it is because most of these tax breaks go for those who pay income taxes in large portions. So who is left out? Most of those 44 million Americans who are working poor, and, therefore, do not pay the substantial number of income taxes to get all of those tax breaks.

Who will benefit? The 160,000 people who benefit are those who are higher income individuals who can shop around and buy insurance already. It is an abusive way to try to spend money. It is an abusive way to try to give coverage. There are better ways to do it.

Perhaps the worst thing about this bill is it is fiscally irresponsible. $48 billion, not paid for, and, worse than that, somehow the math does not add up. The majority here is talking about doing an $800 billion tax cut. It is already overspending its appropriations bills for next year's budget by about $30 billion, and now we are going to pile on top of that $48 billion.

Explain to the American people where you get the money. You can only spend a dollar one time. You are trying to tell the American people you have a shell game going on and you can spend it lots of times.

Let us not pass this bill. Let us get real reform, and tomorrow let us get to the real work at hand, and that is to provide the American people with the rights that they demand. When they go to a hospital, they want to know that they have the best information, the best doctors, to get the best care, and if they do not get it, they deserve to go after whoever was responsible for not giving it to them.

Let us do the right thing. Let us get beyond this, defeat this, and get to getting to the Patients' Bill of Rights.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of this legislation to provide access to health insurance by the uninsured. The number of uninsured people has risen dramatically, a very troubling fact, given the economy, the low unemployment and poverty rates. Health insurance is a critical component of personal financial fitness and we should be doing all we can to help people afford health insurance. You can be for patients rights and for coverage of uninsured Americans.

This legislation provides tax deductions for people who pay 50 percent of the cost of health insurance and long-term care insurance. The GAO has said this will expand coverage to 40 million Americans, 25 million of whom are uninsured. Does it matter whether you help 25 million of the 43 million uninsured? You bet it does. And by making insurance more affordable, you can help them get into the health care system we all value and depend on.

We spend $100 billion in tax breaks for people who have employer-provided insurance, regardless of their income, so why should we not treat those who pay their own premiums exactly the same way? It is a matter of fairness, it is a matter of access to critical benefits, health insurance.

In addition, this bill expands availability to MSAs. I have visited a company in my district, a manufacturing company. These are working people, and they have chosen MSAs. They have a choice and they choose MSAs. Why? Because they can spend MSA dollars on dental benefits, vision benefits, home health care benefits, drug benefits, a far broader range of benefits than most employer plans provide, because they can spend those MSA dollars on anything eligible in the Tax Code.

Why would we not want to offer them that choice? Do we not trust them? I think it is terrific to have sure coverage. And the sicker you are, the better off you would be in an MSA, because once you meet that deductible and you can spend it on everything, then you get catastrophic coverage, and that is the best deal for a really sick person.

In addition, the bill provides new and more affordable choices for small businesses so they can offer coverage to their employees.

In short, let me say that this is a great bill, we should support it, and if we do not open up access, we need our heads examined, because that is the real problem out there. We can do Patients' Bill of Rights and access this week in this House.

Mr. Chairman, I am pleased to rise in strong support of this legislation that will help people afford health insurance. The number of uninsured people has risen dramatically over the past year—a troubling fact, given the growth in our economy and low unemployment and poverty rates. Health insurance is a critical component of personal financial fitness. We should be doing all we can to help people afford health insurance.

This legislation will expand access to health insurance. First, it will offer tax deductions for people who pay at least 50% of the cost of their health and long-term care insurance. At my request, the GAO has examined the impact of a health deduction and concluded that 40 million people would have been eligible in 1997 for a tax deduction for health insurance. Of these 40 million, 25 million were uninsured. We are currently providing over $100 billion in tax breaks to people who have employer-provided insurance regardless of their income. We should do no less for people who have to pay their own premiums. It's a matter of fairness. It's a matter of access to health insurance.

In addition to helping the uninsured through premium deductibility, this bill expands the availability of medical savings accounts (MSAs). MSAs are a preferred way for some people to cover their health insurance costs. I have visited a small company in my district that offers MSAs to their employees. I heard directly from the workers that they prefer MSAs because their health care dollars cover a far broader range of health benefits, better benefits than almost all employers provided plans—dental, vision home care drugs! And gain access to a broad range of doctors, instead of a narrow group covered through an HMO.

In addition, this bill provides new and more affordable choices for small businesses to offer coverage to their employees. Only 28% of employers with less than 25 workers offer health insurance. The main reason for small employers not offering health insurance is the higher costs they face. Their small size means they cannot spread the risk associated with a few unhealthy employees. They also face higher administrative costs.

If we are going to address the problem of uninsured Americans, we must help small businesses, which are one of the fastest growing employment sectors, afford to offer health insurance coverage. People working for small businesses account for 16% of the under-65 population, but 28% of the uninsured. This legislation will help small employers pool together to afford the cost of insuring their workers. It will also create access to health insurance and health care services for people in urban and rural areas by allowing community health centers to serve as insurance networks.

It is critical that we address the problem of the uninsured. CBO estimates that for every 1% increase in health insurance costs, 400,000 people lose their health insurance. If we consider managed care reform legislation without taking steps to increase access to health insurance, we are turning a blind eye to the 44 million Americans who have no health insurance option plus those who will lose their litigation runs premiums up. Our efforts to improve health insurance quality must include equal commitment to increasing the number of insured Americans. H.R. 2990 takes these steps. I urge its adoption.

Mr. STARK. Mr. Speaker, in the interest of explaining how we spend $48 billion to give 160,000 people access, I yield 1½ minutes to the gentleman from Texas (Mr. STENHOLM),

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

Mr. STENHOLM. Mr. Speaker, I rise in strong opposition to this legislation. I do not do so because I do not agree with the goal of increasing access to health insurance. In fact, I support many of the individual provisions in this legislation.

I oppose this legislation because it is fiscally irresponsible to enact legislation that would cost nearly $50 billion, without paying for it and with no clear end game for health care in sight.

Congress should not consider any tax or spending legislation without knowing how it would fit within the context of a comprehensive game plan which balances all of the various health needs of all Americans at an affordable cost. Any decision to fund tax cuts or new spending out of the projected surplus should be made only after we have sat down in a regular committee process in a bipartisan way to make sure there will be sufficient resources for competing needs.

As important as the issue before us today is, we also have a responsibility to deal with the problems of Medicare that threaten rural hospitals, set more realistic discretionary spending levels, deal with the long-term problems facing Medicare and Social Security, and leave room for tax cuts for purposes in addition to health care.

This legislation takes the approach of spend first, figure out if we can afford it, given all the other demands on the surplus later. Some of my friends on the other side of the aisle argue they could not allow the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL) to add an amendment paying for the cost of their bill that we will be considering tomorrow because it was not germane and did not go through the Committee on Ways and Means. I find it very curious we are now bringing up a $50 billion tax bill that did not go through the Committee on Ways and Means and which violates the budget rules. I do not understand that double standard that makes it easy to spend money we do not have and impossible to be fiscally irresponsible.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. ENGLISH).

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

Mr. ENGLISH. Mr. Speaker, in Pennsylvania in 1998, roughly 10 percent of the population did not have health insurance of any sort, and these were not just the indigent, they were small business people, they were self-employed, people who simply could not afford the premiums.

This legislation contains an element fundamental to any balanced debate on health care policy. It would make health care coverage more accessible, not for 160,000, for millions, and, in doing so, blunt the impact of any cost increases that might result from the imposition of health care quality standards.

American families are concerned about their health care. We in Congress must recognize that their concern relates to both the quality of health care and its cost. We cannot and we should not address one without the other.

Mr. Speaker, this legislation is not a poison pill for health care reform, but an essential ingredient to any balanced approach to health care policy. For those of us who support a market oriented incremental approach to improving our health care system, this represents an important step toward the goal of universal access to affordable care.

Mr. STARK. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine (Mr. BALDACCI).

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

Mr. BALDACCI. Mr. Speaker, I appreciate the gentleman yielding me time.

Mr. Speaker, I rise in opposition to this legislation and in favor of the Norwood-Dingell bill, and at the same time to express the worry of Maine's citizens about the out-of-state health insurance companies taking away local control. I am looking forward to working with the gentleman from Georgia (Mr. NORWOOD) and others.

Mr. Speaker, I am very pleased to rise today in support of this bipartisan effort to guarantee minimum standards for access to care for all Americans. This legislation provides crucial protections and preserves the doctor-patient relationship.

Most importantly, this bipartisan bill will hold health plans accountable for their medical decisions. Let's be clear. When an insurance company overrides the decision of a medical professional, that plan is clearly making a decision affecting the health of the patient. This bill recognizes that simple fact.

This bipartisan bill empowers our citizens and assures them that at the very minimum, their relationship with their doctors—relationships built on trust—will not be infringed upon, no matter who owns the plan to which they belong. This bill is necessary in a climate where local control over health insurance is dwindling.

I am deeply concerned about this diminishment of local control which is evident in the current trend of consolidation of health insurers. I am particularly concerned about what this trend means for access to and quality of care for Americans in rura areas.

In my state of Maine, for example, regulators are currently reviewing a proposed merger that will dramatically change the health insurance landscape. If approved, Blue Cross and Blue Shield of Maine will be taken over by an ever-growing regional health insurer. People in my state, one-third of whom are covered under Blue Cross, are experiencing great anxiety about the coverage they will have under an out-of-state insurer with interests spread across the country. The citizens of Maine worry about whether large out-of-state health insurers will take away local control of their plan, reduce benefits while raising premiums, or cut back on quality care.

As the trend of insurance mergers and acquisitions continues, we in Congress ought to continue to review the effects this has on health care delivery and quality of care, especially in rural areas. Although this is not within the scope of this legislation, I would hope that we can soon look further into this trend and ensure that health care consumers' interests are being adequately represented. I hope that Mr. NORWOOD agrees that this is something we should revisit in the future.

I would like to thank Mr. NORWOOD and Mr. DINGELL for their tireless efforts to bring managed care reform and patient protection to the House floor. The American people are demanding change and accountability in this industry. This bill provides real protections for citizens and has the teeth needed to make these protections meaningful. I am pleased to be an original cosponsor of this important legislation, and urge my colleagues to support this bill and to oppose amendments that would weaken it.

Mr. STARK. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia (Mr. NORWOOD).

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Georgia is recognized for 1½ minutes.

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

Mr. Speaker, I have listened to this debate through all three committees, and I am looking for a place to hang my hat. I am very much for the access provisions. I am for medical savings accounts. I am for deductible of long-term care, of insurance. I am for HealthMarts. I even can live with Associated Health Plans if we will put just a little bit of patient protections under ERISA.

But I am not going to vote for this, even though I have a bill that I dropped in the spring that is just like this, because I have concluded, after listening to this debate, that this effort is not to have a law. This bill was not ever intended to be a law. This bill simply is intended to go to conference with patient protections to act as a poison pill, to make sure that we cannot pass those protections that we want.

I know my Republican friends. They would never put up a bill, whether it costs $50 billion, as some say, $43 billion, as others say, $8 billion, as others say, it does not matter, I know we would never put up a bill we intended to be law without trying to figure out how we are going to pay for it.

□ 1630

We are not going to raise taxes to pay for it. We are not going to dip into social security to pay for it. There is no excess in the Treasury, there is only excess of our FICA money. Maybe there will be next year, but this bill does not give us any assurances at all as to how it would be paid for.

This is a bill that can be passed out of the House of Representatives, but it

is not intended to be the law of the land, at least not this go-round. Maybe at another time, another date, we can get that job done.

So I have to oppose the bill simply on the basis that it is a poison pill.

Mr. CRANE. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. THOMAS), the distinguished chairman of the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from California (Mr. THOMAS) is recognized for 2 minutes.

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

Mr. THOMAS. So, Mr. Speaker, it has come to this. If Members had a chance to actually look at the legislation and they had a chance to vote, let me ask the Members if they would be in favor of this: ''Provide an above-the-line deduction for health insurance expenses if your employer does not pay for it.''

That was in the tax bill that was sent to the President. The President vetoed it. We think it is important enough to bring it back. They said it had not been voted on. It has been voted on.

''Provide an above-the-line deduction for long-term care insurance.'' Would Members like to have that deduction? We want people to have it. We sent it to the President. He vetoed it.

Accelerate, for those who are self-employed, the ability to write off, like corporations, their health insurance, so people who are self-employed could have 100 percent coverage as well. It was in the tax bill that was sent to the President. The President vetoed it. We want people to have it. It is in this measure.

''Extend the availability of medical savings accounts.'' Young people who are not going to get sick maybe want to invest in their health, and if they do not spend the money at the end of the year, they can roll it over, but let them choose. That was in the bill that was sent to the President that he vetoed. We still think it is a good idea.

How about if we want our long-term care insurance to be part of a cafeteria plan, if one has insurance? It was in the bill vetoed by the President. We think we should have it.

How about if someone is taking care of someone in our homes right now, out of the goodness of their hearts and their kin relationship? Would they not like to have $1,000 deduction on the tax form? We believe we should have it on the tax form. We sent it to the President. He vetoed it. We think it is important enough to give it to the American people.

That is what this access bill is all about. It is access in ways people can use. We voted on them, we sent them out of the House, we sent them to the President, and he vetoed it. The problem was, it was in a larger bill that contained a number of other items. Now, these are very specific access issues for people. We think they are important enough. They stand alone. The American people should get them. If we vote for this, they will.

Mr. SANDLIN. Mr. Speaker, the Republicans are again playing games with the American people. They are telling the public what they want to hear, hoping no one will read beyond the title of their bill, the Quality of Care for the Uninsured Act.

Well, Mr. Speaker, I read the bill and it doesn't provide access to health insurance to those who need it most. According to the General Accounting Office, nearly one-third of all uninsured Americans would not be helped by this bill. Why? Because they make so little income that they do not pay income taxes. How will the Republican tax breaks help these families? It will not help them one cent.

Of the 44 million uninsured Americans, of whom 5 million live in the State of Texas, the people this bill aims to really help are the 600,000 uninsured healthy families that make almost $100,000 per year and can afford the risk to opt out of the broader insurance pool. The effect of this would be to drive up costs for those most in need of coverage. In addition, the Ways and Means Committee has also determined that only 160,000 people of those 600,000 families would qualify for access to insurance under this bill. Yet we would be spending 48 billion dollars on this phony access package. Even worse, the bill is not paid for within the budget or by offsets.

Mr. Speaker, my Republican friends on the other side of the aisle continue to ignore budgetary reality in order to push through a 48 billion dollar access bill, the funds for which will come directly from the Social Security trust fund. Like the supporters of this bill, I want to give more Americans a range of options for their health care—they should have at least as many choices in their health care plan as Federal employees. However, this bill does not deliver on what its supporters are promising. The Republican access bill will benefit a small group of people and is simply intended to kill the Norwood-Dingell managed care reform bill that so many of my colleagues on the other side of the aisle are trying to derail.

Republicans have already spent over $25 billion over the Social Security surplus, but here they are again with a tax bill they can't pay for. I urge my colleagues not to raid Social Security. I urge them to vote against this fiscally irresponsible poison pill to the Norwood-Dingell managed care reform bill.

Mr. FRELINGHUYSEN. Mr. Speaker, more than 16 percent of the people of my home State of New Jersey don't have health insurance. The national figure is even more staggering—44 million uninsured in America, one in six Americans goes without health care coverage. Mr. Speaker, these numbers are a wake up call and today we are taking steps to respond to the needs of the uninsured.

The Quality Care for the Uninsured Act (H.R. 2990) improves access, affordability and individual choice for the 44 million Americans who lack health care insurance.

H.R. 2990 includes measures designed to ensure that the nation's health care system is accessible and affordable for all Americans.

Highlights of the tax incentives found in H.R. 2990 are:

100 percent deduction for health insurance premiums—for the second time this year, we will send the President a bill that allows each and every American to deduct every penny they pay for health insurance premiums—hopefully he won't veto it the second time, 100 percent deduction of health and long-term care insurance costs for self-employed Americans, and 100 percent deduction for long-term care premiums for all Americans, relief for taxpayers caring for elderly family members at home, cafeteria benefit plans will now be permitted to include long-term insurance, expands medical savings accounts for more Americans to allow more of our families to save for emergency medical needs.

Helping more Americans obtain health insurance is a top priority and this bill will do just that. I urge my colleagues to support H.R. 2990.

Mr. HILL of Montana. Mr. Speaker, it is clear that a growing number of Americans are looking to Congress and their state legislatures to address their concerns facing our health care system.

They are concerned of the number of uninsured working adults and their dependents. They are concerned about the rising costs of health care. They are concerned about the lack of choice in health plans. They are concerned that important decisions involving their health care are being made by government bureaucrats or insurance company adjusters rather than their physician.

While we enjoy the highest quality health care in the world, our system of financing health care often frustrates patients, providers and employers. People are deeply concerned that their health plan may not deliver the care they need when they are sick.

I believe that we need to promote the three A's in reforming the system—Accessibility, Affordability and Accountability.

Mr. Speaker, today we will be taking up the first two important parts to ensuring patient protection—Accessibility and Affordability.

The best patient protection of all is access to quality, affordable health care. Yet, there are more than 43 million Americans who are currently uninsured. Nineteen percent, or nearly one in every five Montanans are uninsured. More than 60 percent of the uninsured have one thing in common—they are either self-employed, or their family is employed by a small business that cannot afford to provide health benefits.

H.R. 2990 promotes accessibility and affordability by requiring basic protections to ensure high-quality health care coverage. This legislation accomplishes this in three major ways.

First, we accelerate the phase-in of the 100 percent deduction for the health insurance of self-employed individuals to become effective in 2001.

Secondly, the bill establishes a process for certifying association health plan (AHPs). AHPs empower small business owners who currently cannot afford to offer health insurance to their employees, to access health insurance through trade and professional association.

Third, this legislation expands medical savings accounts (MSAs) to increase access to health care services and patient control of health care expenditures.

Through these three and many other provisions in H.R. 2990, today the House will pass a common-sense approach to providing affordable choices and reliable access to health care for consumers.

Again, I urge all of my colleagues to support this bill.

Mr. BARCIA. Mr. Speaker, I rise today in opposition to H.R. 2990. This bill, while ostensibly aimed at expanding access to healthcare for those who are currently uninsured, in reality fails to provide access to health insurance for those who need it most. The authors of this bill have been very creative in drafting this legislation. They tout Association Health Plans, Tax Deductions for the Self-Employed and Uninsured and expanding Medical Savings Accounts. And unlike some of my Democratic colleagues, I have supported versions of these proposals in the past. I have worked with small businesses and local chambers of commerce in Michigan to allow them to form Association Health Plans. I have supported tax deductions for the self-employed and allowing individuals open tax free savings accounts for the purpose of covering their medical expenses. However, I must oppose this bill because of the many clever exemptions included by the authors of this legislation that will ultimately undermine any hope of increasing access to healthcare or providing important patient protections for our constituents.

Under this bill, Association Health Plans will be exempt from important consumer protection, insurance and benefit regulations. Consumers in 33 states that require mental health benefits could lose this protection. Women in 49 states could lose mammography screening. Children in 29 states that require well-child care could face new financial barriers. These new plans intended to increase access will actually open new barriers to much needed health care.

In addition, H.R. 2990 spends $48 billion federal on tax breaks that do more to help the healthy and the wealthy than the uninsured. According to the General Accounting Office, nearly one third of all uninsured Americans are at the lowest end of the income bracket. New tax deductions or medical savings accounts will not help them to purchase health insurance. These hardworking families are completely ignored by this bill.

This morning I received a postcard from the National Federation of Independent Business which I submit for the record. It stated:

DEAR REPRESENTATIVE: On behalf of the 600,000 members of the National Federation of Independent Business, I urge you NOT to help the 44.3 million uninsured Americans by voting for H.R. 2990.

Now I realize this is probably not the argument the NFIB intended to make in an attempt to garner support for this bill, however, the statement does have merit.

H.R. 2990 does not help the millions of Americans who are uninsured. It does not improve their access to healthcare. It does not provide important patient protections. Instead, it grants tax breaks to the healthiest and wealthiest. Instead, it divides the insurance market between the healthy and the sick, undermining state efforts designed to spread health risks broadly. Instead of improving access to health care, this bill ignores millions of Americans who cannot afford the high cost of health insurance.

Mr. Speaker, I urge my colleagues to vote no on this bill.

DEAR REPRESENTATIVE: On behalf of the 600,000 members of the National Federation of Independent Business, I urge you not to help the 44.3 million uninsured Americans by voting for H.R. 2990, which will expand access to affordable health care coverage for small businesses and their employees.

Specifically, H.R. 2990 would lower health care costs for small business while increasing their choices in the health care marketplace. Here's how:

Association Health Plans (AHPs) would give small business the administrative cost savings, economies of scale, and bargaining power now enjoyed by big business;

Tax-Deductible Premiums for the Self-Employed and Uninsured would offer tax equity to level the playing field between the ''haves'' and ''have nots;

Medical Savings Accounts (MSAs) would allow families to exercise control over their individual health care dollars to address their particular needs.

Don't turn your back on the uninsured, the majority of which (3 out of 5) are small business owners and their employees. Increase their access to affordable health care coverage. Vote for H.R. 2990! This will be an NFIB Key Small Business Vote for the 106th Congress.

Sincerely,

DAN DANNER,
Vice President, Federal Public Policy.

Mr. VENTO. Mr. Speaker, I rise today in opposition to H.R. 2990, the Quality Care of the Uninsured Act.

While I am concerned by the burgeoning numbers of uninsured, I am not convinced that this legislative initiative will provide relief to those who most need health care coverage. I am also disappointed that the Republican leadership has used this important forum for debate on managed care reform to resuscitate discredited tax proposals that are not even offset. Last week, the Congressional Republicans promised once again not to use Social Security trust funds; this week, they are advancing H.R. 2990 with no offset. Last week, the Congressional Republicans promised once again not to use Social Security trust funds; this week, they are advancing H.R. 2990 with no offsets, and once again breaking their promise not to spend Social Security funds.

Unfortunately, Medical Savings Accounts (MSAs) are predicated primarily on greater cost-sharing and reduced health care use by beneficiaries. While this may be feasible for the wealthy and healthy, it does not help the sick and poor, and could lead to adverse selection by health plans. Essentially, MSAs are just another tax break for those who need it least.

While I have supported full tax deductibility for small business health insurance in the past, I question policies to promote further segmentation of health care consumers. Association Health Plans and HealthMarts would not only separate the healthy from the sick, but they would allow certain health plans to circumvent state regulation. It is ironic that H.R. 2990 would actually create a more expansive ERISA shield at a time when Congress is trying to close the current ERISA loophole.

Mr. Speaker, while the individual market may offer healthy people affordable coverage, people with substantial health risks will be burdened with disproportionate costs or limited access under this proposal. Disguised by popular bromides such as access and choice, these proposals would only serve to create further disparities in health care utilization in our society.

It is unfortunate that we continue to allow a slow erosion of health care coverage at the expense of some of our most vulnerable workers and their families. Congress should seek comprehensive and responsible measures to reduce the number of uninsured. However, H.R. 2990 will not accomplish that goal. I urge my colleagues to reject this legislation and work towards substantial managed care reform that does not include costly tax breaks which blatantly expend Social Security trust funds.

Mr. STEARNS. Mr. Speaker, I am pleased to support H.R. 2990, the Quality Care for the Uninsured Act. The legislation promotes access to health coverage for the estimated 43 million Americans who are currently lacking health insurance.

Approximately 85 percent of these individuals are employed and either opt to forego such coverage (healthy young individuals) or work for companies who cannot afford to provide such benefits to their employees.

Most people who have health insurance are covered by a health insurance policy chosen for them by their employers. If they work for small companies/businesses that cannot afford to pay for health coverage, they often have no coverage at all. If they are fortunate enough to have employer provided coverage, the possibility remains that if they lose their jobs or decide to change jobs, this valued benefit can be lost. Individuals who are self-employed currently get a 60% tax credit for purchasing their own health insurance, unlike the major corporations who get a 100 percent credit for purchasing health coverage for their employees.

Tax benefits should be moved out of the workplace and shifted over to the individual or family. Everyone—the self-employed as well as those who work for small firms—should get a tax credit to enable them to purchase coverage for themselves and their families. These credits should be larger for those whose medical expenses make up a greater share of their income. These credits should be refundable so that low-income individuals and families should get assistance if they have no tax liability.

Under current tax law, third-party insurance is subsidized and self-insurance is penalized. Every dollar an employer pays for third-party insurance is excluded from employee income. When employee's try to save that money it is taxed.

If we are to have true health care reform, we must provide individuals with the option of being allowed to create Medical Savings Accounts (MSAs). These Medical IRA would enable consumers to use tax-free savings accounts to self-insure for routine, out-of-pocket medical expenses.

By empowering consumers with choice and individual responsibility, a healthy competition among insurance companies to compete for the consumers' health care business would be generated.

One of the proposals in H.R. 2990 to expand access to health coverage is through the establishment of HealthMarts which would shift the decision making power over to the individual or family. Everyone—the self-employed as well as those who work for small firms—should be allowed to purchase coverage for themselves and their families. The consumers would be given the ability to making their own choices. This gives consumers a sense of empowerment and a sense of responsibility which will encourage them to wisely use medical services.

H.R. 2990 provides for the establishment of Association Health Plans (AHPs) to allow national trade and professional associations to

sponsor plans. This would also allow them to buy into plans and pool together for themselves and their employees.

This bill also allows Community Health Organizations to form networks to give community health centers greater control of their resources and to provide comprehensive coverage to the people they assist.

Community health centers offer a valuable service by providing primary health care in our rural and urban communities. I have toured these community health care centers and know full well the valuable services they provide and it is one of the most cost-effective programs in which our government invests to meet the growing demands of the uninsured and underinsured.

I support this important bill that would provide those individuals, many of whom are the working poor, who do not currently have access to health care insurance an opportunity to purchase such care for themselves and their families.

Ms. MILLENDER-McDONALD. Mr. Speaker, the nation continues to cry our for reform of the managed care system. However, I must rise in strong opposition to this bill and the rule that has brought this important issue to the floor. As legislators, we must stop playing games with healthcare. I have great respect for my colleague Mr. TALENT, but I do not believe that H.R. 2990 provides the access to quality health care that our constituents really need.

When we talk about access to health care, those that are most in need are children and those with limited means. This bill does nothing to provide access to those people. Instead it contains ''poison pill'' provisions in an effort to pander to campaign contributors. One-third of the currently uninsured will still not have access to health care. This bill spends federal dollars on tax breaks—when is the last time a tax break benefited the poor and low-income?

I urge my colleagues to vote no against this special interest poison pill package disguised as an ''access'' bill to health care.

Mr. WELDON of Florida. Mr. Speaker, I believe strongly that any discussion of improving the quality of care for those with health insurance must also include a discussion of ways to make health insurance more affordable. Earlier this week, the Census Bureau released the latest figures showing that nearly one million additional Americans were added to the ranks to the uninsured last year. We must take steps to ensure that these Americans have greater access to affordable health insurance.

There is no doubt that the managed care reform legislation that we are considering today will result in higher insurance premiums for Americans. There is significant difference of opinion about how much those premiums will go up. Will it be one percent, three percent, or ten percent? Study after study has indicated that with every one percent increase in insurance premiums 300,000 additional Americans lose their insurance. That is why I believe it is so critical that these issues be considered together.

H.R. 2990 will expand insurance options for uninsured Americans. I am particularly pleased that the bill provides a 100 percent deduction for health insurance premiums and long-term care premiums if the taxpayer pays more than 50 percent of the premiums. This is long overdue. For too long, Americans who pay for their health insurance out of their own pockets have not had the same opportunity to deduct these expenses as do large corporations. This bill fixes that problem.

I am also pleased that the bill provides families with an additional exemption ($2,750) if they care for an elderly family member in their home. This is important in helping families who have made a decision to care for an elderly family member in their own home, rather than placing them in an expensive long-term care facility.

Association Health Plans (AHPs), which are encouraged in this bill, will play a critical role in helping those who work for small businesses have access to affordable insurance. This is the largest segment of uninsured Americans. AHPs enable small employers to pool together to obtain the economies of scale, purchasing clout, and administrative efficiencies enjoyed by employees of larger firms.

H.R. 2990 expands Medical Savings Accounts (MSAs) to increase access to health care services and patient control of health care expenditures. It (1) allows both employers and employees to make contributions to MSAs: (2) makes MSAs a permanent health care choice under the law; (3) eliminates the cap on the number of taxpayers (currently 750,000) that may benefit annually from MSA contributions; (4) reduces the minimum deducitble to $1,000 for individual coverage and $2,000 for families; and (5) allows MSA contributions equal to 100 percent of the deductible;

The bill also allows for the creation of HealthMarts, which are private, voluntary, and competitive health insurance ''supermarkets'' that transfer choice within the current employer-based health insurance market from small employers to their employees and dependents. HealthMarts are similar to the Federal Employee Health Benefits Plan (FEHBP) which gives federal employees greater choice among a host of different plans. They will be established and run by private sector partnerships consisting of providers, consumers, small employers, and insurers.

Finally, the bill permits Community Health Organizations (CHOs) to offer health insurance coverage in a state in which they are not licensed under certain conditions. This change is designed to make it easier for providers to form health care networks to meet needs in medically under served areas.

Again, I believe that this bill, combined with patient protection legislation will play an important role in improving the quality of health care and giving Americans greater access to affordable insurance plans.

Mr. HAYES. Mr. Speaker, over the August recess, I had the opportunity to meet with a number of health care providers in my district, the 8th district of North Carolina. Without exception, these care givers share a common concern. Hospitals and clinics in rural America appear to shoulder a disproportionate share of the spending reductions agreed to in the Balanced Budget Agreement of 1997. Now why do I bring up this subject today. Because our hospitals are currently providing health care for the more than 43 million uninsured Americans and have to absorb the cost.

Hospitals and clinics are faced with the untenable position of having to scale back services or closing their doors altogether. In fact, many of our providers have trimmed services to such an extent that in the near future they may be forced to turn away critically ill patients. As you can imagine, further cuts in Medicare spending expected for next fiscal year will only exacerbate the current problem, leaving our hospital administrators braced for the worst, but financially unable to respond to needs.

If we do not address the desperate situation in which our health care providers find themselves, my constituents, both individuals and businesses, will not have any choice when it comes to health care—hospitals, doctors, nursing homes. I am hearing from hospital and nursing homes that they will be closing their doors within the next year if immediate relief for these budget cuts are not addressed.

Elements of all three health care bills that are being debated later today will become obsolete if our hospitals and clinics begin to close, including: Rural Americans diminished access to health care because they will have to drive too many miles to see a primary care physician; emergency care that will be so far away that patients could die before ever reaching a hospital; and less access to local pediatricians, obstetricians, and specialists.

Bottom line the health care services will be unavailable. I support the intentions of the underlying health care bills, but at what cost? I cannot pass along these costs to the consumer.

Let's pass H.R. 2990—Quality Care for the Uninsured to give small businesses, individuals and early retirees the access to affordable health care. But, let's please be careful how we pass along the cost to consumers. Let's allow patients to speak freely with their doctors. Let's be sure there is accountability. Let's provide choice in primary care physicians and specialists, and give employers the opportunity to provide affordable benefits to their employees. But, if we pass costly new mandates—won't we be passing along the cost to the consumer that we are trying to help with H.R. 2990?

I would also like to urge the Speaker—Let's address Medicare reform this year—so that both of these bills do not become null and void in Rural America.

Mr. RYAN of Wisconsin. Mr. Speaker, I am here today to speak in favor of the Quality Care for the Uninsured Act.

You are going to hear a lot of discussion later today about protecting individuals who are enrolled in health plans in this country; but we have a much bigger problem in this country. A problem that this act provides solution for—the problem of the uninsured.

It is important to make sure individuals who have health care are receiving quality care, but it even more important to find a solution for the growing number of uninsured. The Census Bureau reported that currently 44 million people in this country do not have health insurance—that number has been steadily rising during this administration. We must find a way to provide a better system for them—a system that makes health care affordable and accessible.

This bill does that with healthmarts, medical savings accounts, tax deductions for the self-employed and the uninsured, tax deductions for long-term care premiums, and association health plans. These provisions will help small businesses find a way to offer health insurance for their employees.

I believe everyone in this country deserves quality, affordable health care. This bill provides that through tax incentives and market reform. I urge my colleagues to join me in voting in favor of the Quality Care for the Uninsured Act.

Mr. BALLENGER. Mr. Speaker, I rise today in strong support of H.R. 2990, an important and timely bill designed to help the 44.3 million Americans who have no health insurance whatsoever. These Americans will find little comfort from our debate later today and tomorrow over improvements to managed care plans. H.R. 2990 offers something for them—that is, accessible, affordable and accountable health insurance coverage.

This week, Congress and the American people learned from a Census Bureau report that the ranks of the uninsured has swelled by another one million. I support the efforts of the Republican leadership to give these uninsured Americans more choice in the health insurance market instead of expanding big government plans which President Clinton has embraced.

To this end, H.R. 2990 contains important changes in the tax code which we have championed in earlier tax relief packages, including expanding Medical Savings Accounts (MSAs). We have worked for years to convince President Clinton that expanded eligibility for MSAs is one solution to the problem of the uninsured. The facts are in: 42 percent of individuals purchasing MSAs this year were previously uninsured. In addition to the creation of association health plans and ''HealthMarts,'' H.R. 2990 also accelerates to 2001 the phase-in of the 100 percent deduction for the health insurance of the self-employed Americans. Last month, the President rejected an immediate 100 percent deduction of these costs when he vetoed the Taxpayer Refund and Relief Act of 1999.

I believe we need to add common sense and tax relief to the health care access debate. H.R. 2990 does just that, and I urge my colleagues to vote for it.

Mr. STARK. Mr. Speaker, this is a very tough week for the House Republican leadership. In an attempt to get the spotlight off of bipartisan attempts to curb the power of big managed care companies, the Republican leadership is finally willing to talk about helping the uninsured get access to health care. Unfortunately, while their proposals are expensive, their talk is cheap.

In a very cynical attempt change to the topic from managed care reform, we will see Republicans on the floor today in the House of Representatives claiming to be trying to expand health insurance to the uninsured. Don't be fooled. Their proposal will not help the population the most likely to lack health insurance and it isn't financed at all. It would cost the federal government more than $48 billion over ten years without solving the very problem it proclaims to address.

A record 44.3 million uninsured Americans live in our country today, hoping and praying they do not get sick or injure themselves. More than 32 million of these families have income at or below the 15% income tax bracket. These are people who cannot afford to pay insurance premiums—working families of modest means, people between jobs, students, unskilled workers who do not have the luxury of demanding employer coverage—or have a ''pre-existing condition'' that makes them persona non grata in the individual insurance market. The ''access'' provisions that the Republicans offer do little to nothing to help these people without insurance. Instead, they provide tax breaks to the wealthy and the healthy through a variety of tax changes that don't reach the uninsured.

For example, one of their so-called access provisions would expand a demonstration project on medical savings accounts (MSAs) so that all employers could offer them. Generally, demonstration projects have to ''demonstrate'' some success to be expanded but, in this case, the big insurance companies that offer MSAs have much more political clout with the GOP than the millions of uninsured. Instead of admitting that MSAs have failed, the Republicans are throwing more money into them. With bigger tax breaks, more healthy and wealthy people will use them, but that doesn't do anything for people too poor to afford insurance or benefit from MSAs.

Another provision would expand the deductibility of health insurance that employers and the self-employed receive to people who purchase their own insurance. It would not provide people with up front funds to help them purchase health insurance. Again, since more than 32 million uninsured families are at the 15% or 0% income tax bracket, this provision does nothing to make insurance affordable to them.

The Republicans also do nothing to address the inequities of the individual insurance market. Anyone with a pre-existing condition, anyone who is older, anyone with a genetic history of potential health problems will continue to find it impossible to purchase affordable insurance.

There are also other Republican provisions that would preempt state regulation of insurance in favor of new federal regulations. These so-called Association Health Plans and HealthMarts would undermine successful state-based small group market and individual insurance reforms. They are less comprehensive health insurance policies that would escape state consumer protections. The Republican proposal would let these plans ''cherry-pick'' the healthy, low-cost patients and result in higher health insurance premiums for people in traditional state-regulated insurance.

If the Republicans were serious about providing access to the uninsured, there are a number of affordable, sensible solutions which they could be raising on the floor today, but aren't. Those provisions include items such as:

Passing the Medicare Early Access Act. Introduced again this Congress as H.R. 2228, this bill would allow all people aged 62–64 to buy into Medicare program, people aged 55–64 who have lost their job to buy into Medicare, and would allow people whose employers' renege on retiree health coverage the option of staying in COBRA until they are Medicare-eligible. This bill has only a small cost that can be fully covered by a number of small Medicare fraud and abuse revisions. Yet, we have seen no action on this legislation that would provide a new, affordable option for health insurance coverage for early retirees—the people who are the hardest to insure in the private marketplace and a significant growing portion of the uninsured.

Enacting provisions to protect children whose parents are leaving the welfare rolls for low-income jobs so that they aren't inappropriately dumped out of Medicaid and left without health insurance. The number of people with Medicaid coverage in 1998 was the lowest it's been since 1991, according to the Bureau's historical tables on insurance coverage.

Improving the State Children's Health Insurance Program. This program was passed by Congress with great fanfare in 1997 as a means of extending health insurance to half of the then 10 million uninsured children. According to new census data, we now have 11 million uninsured children after that program has been in existence two years. Clearly, it isn't working as intended. Serious attention should be focused on making this program work or finding a new solution for covering these 11 million children. It's not rocket science to figure out who are low-income children. The Internal Revenue Service could run a match or we could utilize data from the free and reduced price school lunch program to presumptively enroll children.

Passing H.R. 1180, the Work Incentives Improvement Act to allow the more than 8 million people receiving disability benefits return to work without fear of losing their health insurance. This bill has already unanimously passed the Senate and the Commerce Committee, but it has been stalled from reaching the House floor.

These are real, concrete steps that would help the uninsured, but they are not part of the Republican bill. Instead, all of these Republican leadership provisions benefit the well-heeled rather than the uninsured. Essentially the Republican leadership has taken a tax break package for the wealthy and disguised it as a health access bill. But the Wolf's teeth show through the sheep's clothing when one looks at how the bill is financed. Instead of finding off-sets and living within tradition pay-go rules, the Republican leaders decided to tap the surplus needed to shore up Social Security and Medicare and pay down the debt.

Not only are the Republican leaders not proposing a plan to help those who cannot afford health insurance, by using the surplus, they are putting the future of Social Security and Medicare in jeopardy and increasing the amount of debt we leave to future generations.

H.R. 2990 is a poison pill to managed care reform and I urge my colleagues to join me in opposing this legislation.

As further evidence of this point, I submit new data that we have received from the Joint Tax Committee.

As you will see, the Joint Tax Committee has estimated how many people the Talent Access bill would help.

The answer: Almost no one. The tax deduction for individuals paying for more than 50% of the cost of the health insurance will cost $31.2 billion over 10 years and result in 200,000 uninsured people getting insurance. That's $156,000 per new insured person—$15,600 per year.

The acceleration of the 100% tax deduction for the self-employed will help 120,000 previously uninsured and cost about $3 billion over 4 years. That's $6,250 per person per year—a cadillac cost for sure.

JOINT COMMITTEE ON TAXATION,
Washington, DC, October 6, 1999.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: This is in response to your letter of October 4, 1999, requesting revenue estimates and other information concerning several of the health care

tax provisions in the conference agreement on H.R. 2488 and two of the health care tax provisions in S. 1344.

The conference agreement on H.R. 2488 contains an above-the-line deduction for health insurance expenses and long-term care insurance expenses for which the taxpayer pays at least 50 percent of the premium. The deduction would be phased in at 25 percent for taxable years beginning in 2002 through 2004, 35 percent for taxable years beginning in 2005, 65 percent for taxable years beginning in 2006, and 100 percent for taxable years beginning in 2007 and thereafter. Taxpayers enrolled in Medicare, Medicaid, Champus, VA, the Indian Health Service, the Children's Health Insurance Program, and the Federal Employees Health Benefits Program would be ineligible for the deduction for health insurance expenses.

The conference agreement on H.R. 2488 also contains a provision that would allow long-term care insurance to be offered as part of cafeteria plans, effective for taxable years beginning after December 31, 2001.

For the purpose of preparing revenue estimates for these provisions in H.R. 2488, we have assumed that the provisions will be enacted during calendar year 1999. Estimates of changes in Federal fiscal year budget receipts are shown in the enclosed table.

We estimate that in calendar year 2002 about 9.1 million taxpayers would claim the 25-percent deduction for health insurance expenses. About 100,000 of these 9 million taxpayers would be new purchasers of health insurance. Assuming an average of two persons covered by each policy, about 200,000 persons would be newly insured as a result of the 25-percent deduction for health insurance expenses.

We estimate that in calendar year 2002 about 4.7 million taxpayers would claim the 25-percent deduction for long-term care insurance expenses, and an additional 300,000 taxpayers would use cafeteria plans to pay their share of premiums for employer-sponsored long-term care insurance. About 80,000 of these 5 million taxpayers would be new purchasers of long-term care insurance.

S. 1344 contains a provision that would increase the deduction for health insurance expenses of self-employed individuals. Under present law, when certain requirements are satisfied, self-employed individuals are permitted to deduct 60 percent of their expenditures on health insurance and long-term care insurance. The deduction is scheduled to increase to 70 percent of such expenses for taxable years beginning in 2002 and 100 percent in all taxable years beginning thereafter. S. 1344 would increase the rate of deduction to 100 percent of health insurance and long-term care insurance expenses for taxable years beginning after December 31, 1999.

S. 1344 also contains provisions that would eliminate certain restrictions on the availability of medical savings accounts, remove the limitation on the number of taxpayers that are permitted to have medical savings accounts, reduce the minimum annual deductibles for high-deductible health plans to $1,000 for plans providing single coverage and $2,000 for plans providing family coverage, increase the medical savings account contribution limit to 100 percent of the annual deductible for the associated high-deductible health plan, limit the additional tax on distributions not used for qualified medical expenses, and allow network-based manage care plans to be high-deductible plans. These provisions would be effective for taxable years beginning after December 31, 1999.

For the purpose of preparing revenue estimates for these provisions in S. 1344, we have assumed that the provisions will be enacted during calendar year 1999. Estimates of changes in Federal fiscal year budget receipts are shown in the enclosed table.

We estimate that in calendar year 2000, about 3.3 million taxpayers would claim the 100-percent deduction for health insurance expenses of self-employed individuals. About 60,000 of these taxpayers would be new purchasers of health insurance. Assuming an average of two persons covered by each policy, about 120,000 persons would be newly insured as a result of the 100-percent deduction for health insurance expenses.

We do not have an estimate of the numbers of individuals who would be newly insured as a result of the medical savings account provisions of S. 1344.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

LINDY L. PAULL.

Enclosure: Table #99–3 206

ESTIMATED REVENUE EFFECTS OF VARIOUS PROVISIONS RELATING TO HEALTH CARE

[By fiscal years, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000–04	2000–08
Health care provisions in the conference agreement for H.R. 2488:													
1. Provide an above-the-line deduction for health insurance expenses—25% in 2002 through 2004, 95% in 2005, 65% in 2006, and 100% thereafter.	tyba 12/31/01	—	—	−444	−1,379	−1,477	−1,803	−3,137	−5,878	−8,299	−8,848	−3,300	−31,264
2. Provide an above-the-line deduction for long-term care insurance expenses—25% in 2002 through 2004, 35% in 2006, 65% in 2006, and 100% thereafter.	tyba 12/31/01	—	—	−48	−328	−964	−417	−677	−1,315	−2,027	−2,146	−741	−7,324
3. Allow long-term care insurance to be offered as part of cafeteria plans; limited to amount of deductible premiums [1].	tyba 12/31/01	—	—	−104	−151	−171	−190	−202	−204	−215	−247	−426	−1,484
Total of health care provisions in the conference agreement for H.R. 2488.		—	—	−596	−1,858	−2,012	−2,410	−4,016	−7,397	−10,541	−11,241	−4,467	−60,074
Health care provisions in S. 1344, as passed by the Senate:													
1. Immediate 100% deductibility of health insurance and long term care insurance premiums of the self-employed.	tyba 12/31/99	−245	−1,007	−1,040	−657							−2,949	−2,844
2. Liberalization of conditions for enrolling in MSAs	tyba 12/31/99	−93	−281	−326	−370	−414	−458	−502	−546	−590	−634	−1,483	−4,214
Total of health care provisions in S. 1344, as passed by the Senate.		−338	−1,268	−1,866	−1,027	−414	−458	−502	−546	−590	−634	−4,432	−7,164

Note.—Details may not add to totals due to rounding.
Legend for "Effective" column: tyba=taxable years beginning after [1] Estimate assumes concurrent enactment of the above-the-line deducation for long-term care Insurance (item 2.)
Source: Joint Committee on Taxation.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 323, the bill is considered read for amendment, and the previous question is ordered.

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.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. RANGEL. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Rangel moves to recommit the bill, H.R. 2990, to the Committee on Ways and Means with instructions to report the same promptly back to the House with an amendment in the nature of a substitute that—makes the bill consistent with the President's demand to preserve the projected surpluses until there is action on Medicare and Social Security solvency.

PARLIAMENTARY INQUIRY

Mr. ARCHER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ARCHER. I have just listened to the motion to recommit. I have a copy of it in writing before me. I am curious as to what is the amendment that will make the bill consistent with the President's demand.

This says to report the bill back with an amendment that will make it consistent with the President's demand. I am curious as to what the terminology and the wording of that amendment would be.

The SPEAKER pro tempore. These are general instructions from the gentleman from New York contained in the motion to recommit, so they are general instructions and not instructions to report "forthwith", which could be taken up in the Committee on Ways and Means if the motion to recommit is successful.

The gentleman from New York (Mr. RANGEL) is recognized for 5 minutes in support of his motion to recommit.

Mr. RANGEL. Mr. Speaker, I understand the problem that my chairman has in not understanding any amendment that preserves the projected surpluses in social security and Medicare. But this is what the President has been

saying all along, that we can present bills that are paid for, we can reduce benefits and other things, but the bill has to be amended, amended, amended, amended, paid for, paid for, paid for, paid for; not bust the social security trust fund, not bust the Medicare trust fund. That is all the amendment means.

I think we have had enough of partisanship for today. I think it is abundantly clear that the American people want a decent patients' rights bill. That is what they want. That is what Republicans want. That is what Democrats want. We cannot be effective as a body if we truly believe there is a Republican right way to do it or a Democratic right way to do it.

The only way we can do it is putting the party labels behind us and sitting down like the gentleman from Georgia (Mr. NORWOOD) has and the gentleman from Michigan (Mr. DINGELL) has to put together a bill that is not good for our parties, not good for our elections, but good for those people who need solid health care.

That is what we are trying to do. That is why we have a motion to recommit, not to get rid of the bill, but to make certain that we pay for whatever we attach to what is a good bill.

We do not know where Members got the access to health care to tax bills, but obviously if there is a little Republican bag of tricks, then come up with some money to pay for these things. That is all we are suggesting.

It is just not fair to the American people to see that they have lost the support of their own party on a bill that is good for the American people, and instead of just taking it and working with it and seeing where the next struggle would be for bipartisanship, they had to come up with something that not even the Members of the tax-writing committees have seen.

What they have done is to try to poison a good bill. It is not the right thing to do, it is not the fair thing to do, and it should not make Members proud, as Republicans, that they can kill a bill. They have the majority. The real question is, do Members have the determination to work with us so that we can work our will in providing the right thing for the American people?

When people talk about a Patients' Bill of Rights, they are not talking about a tax bill, they are talking about something that we have created together with Republicans and Democrats working together. So I do not know why that side would object to the motion to recommit. It gives them the opportunity to be responsible. It gives them the opportunity to review the access to health care through using the tax system.

If Members really believe we should use the tax structure, that is, no longer pull it up by the roots, no longer reduce it to the size of a postcard, but put another 30, 40, 50 pages there, which certainly the IRS would say that we would need in order to carry out the bill that Members just pulled up.

If Members really want to use the tax code for that purpose, I do not think there would be serious objection on the Democratic side, and not by the President of the United States. But they have to pay for it. This message has been sent out so often that I think the American people understand it a lot better than some of my colleagues on the other side.

All it says here is that the bill be recommitted to the Committee on Ways and Means. That means that we have to meet as a committee. I know that is difficult, but, Members know, no caucus, but Democrats and Republicans come together and report the same bill out promptly, which means all we have to do is to find ways to pay for this bill. Then we report it back to the floor. Then we can get on with the Patients' Bill of Rights.

If Members have no concern about what happens to social security and no concern about what happens to Medicare, then they can say, let us deal with the projected surplus. They can even say, let us do it with smoke and mirrors, whatever makes them feel comfortable.

But the whole thing is, let us not bring a bill to this floor and pass it because they have the numbers, only to have the President of the United States veto it. Do not send a bill like this over to the Senate, only to have them pile on whatever they wish to do in terms of loopholes for large corporations and probably donors to their party.

In other words, it is not Christmas in September. It is time for us to come together as Members of Congress, cut out the partisanship, and work together as a team.

The SPEAKER pro tempore. Is the gentleman from Texas (Mr. ARCHER) opposed to the motion to recommit?

Mr. ARCHER. Mr. Speaker, I am opposed to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, I listened to the gentleman from New York, and I heard the rhetoric that we are invading the social security trust fund, that we are undermining Medicare. He knows that is not true. There is nothing in this bill that in any way invades the social security trust fund, and it is so certified by the Congressional Budget Office. I do not know why we have to listen to that kind of rhetoric, but, of course, we do.

He says we have to save social security first. I agree with that. I have pushed for a plan to save social security, but I have not seen any specific plan come from the other side. We have been told recently in the media that the Chief of Staff in the White House has said that social security is not a priority anymore this year.

Are we then faced with a standard which says, you have to save social security before you can give tax relief, and then on the other hand, but we will not let you save social security, in effect, just simply saying, we do not want tax relief?

Why is this position being taken? Frankly, I do not know, because in 1997 we had a tax bill that was passed when social security was in worse shape and we had no surpluses, and they voted for it. They made a big point of all of the relief that they had given to the American people. But today they want to stop children from being able to have access to vaccines, a new vaccine that can be an across-the-board preventer of many, many childhood diseases. Sixty-four million children will be denied access to that vaccine. He calls it, or my friend, the gentleman from New York (Mr. RANGEL), calls it a poison pill. Who is poisoned is the children who will not be able to get a vaccination.

What really this is all about, Mr. Speaker, I believe, sadly, is some type of political ploy to get to some end position on the part of the Democrats that might give them an advantage in the elections next year. I cannot imagine what it is, but clearly that must be what they feel.

When the President vetoed our tax bill, he said it was too big. It was irresponsible, risky, too big. But we could have a $300 billion tax bill. Now we have tax relief for health care that will give more access to more people to health care, and it is $48 billion, and it still is not going to be accepted by the other side.

I do not know what is happening. Perhaps it is really that the Democrats want to fight ferociously to keep this money in Washington because they know better how to spend it than the people do in taking care of their own health needs. Perhaps; I do not know. I have wondered about this effort to try to tie something that has no relationship to social security and Medicare into the social security-Medicare mix.

But I do know that if this bill does not pass, we will have millions of Americans who will not have access to health insurance who would otherwise have it. We will have thousands and thousands of Americans who will not get tax relief for taking care of their elderly in their own homes.

□ 1645

We will have, again, millions of Americans who will not have access to long-term care insurance because they will not be given this tax deduction, and we will have a continuation of the inequitable and unfair treatment taxwise of different ways to provide health care; that big corporations get the deduction, the self-employed do not, and the individuals who have to buy their own insurance do not get it. That is wrong, Mr. Speaker. We cure that.

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

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

Mr. THOMAS. Mr. Speaker, I understood that there would be a denial of a vaccine if this measure is voted down.

Mr. ARCHER. That is correct.

Mr. THOMAS. That vaccine is for America's children?

Mr. ARCHER. Mr. Speaker, 64 million American children would have access to a new vaccine that will come on the market in November. But if this bill does not pass, it will not be put on the market.

Mr. THOMAS. So on one hand, it is rhetoric about corporations; and on the other hand, it is vaccine for the America's children.

Mr. ARCHER. Mr. Speaker, this motion is ill-conceived. It is vague. It should be opposed. I urge all of my colleagues to vote no on the motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. RANGEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 220, not voting 2, as follows:

[Roll No. 484]

AYES—211

Abercrombie	Doggett	LaFalce
Ackerman	Dooley	Lampson
Allen	Doyle	Lantos
Andrews	Edwards	Larson
Baird	Engel	Lee
Baldacci	Eshoo	Levin
Baldwin	Etheridge	Lewis (GA)
Barcia	Evans	Lipinski
Barrett (WI)	Farr	Lofgren
Becerra	Fattah	Lowey
Bentsen	Filner	Lucas (KY)
Berkley	Forbes	Luther
Berman	Ford	Maloney (CT)
Berry	Frank (MA)	Maloney (NY)
Bishop	Frost	Markey
Blagojevich	Gejdenson	Martinez
Blumenauer	Gephardt	Mascara
Bonior	Gonzalez	Matsui
Borski	Goode	McCarthy (MO)
Boswell	Gordon	McCarthy (NY)
Boucher	Green (TX)	McDermott
Boyd	Gutierrez	McGovern
Brady (PA)	Hall (OH)	McIntyre
Brown (FL)	Hall (TX)	McNulty
Brown (OH)	Hastings (FL)	Meehan
Capps	Hill (IN)	Meek (FL)
Capuano	Hilliard	Meeks (NY)
Cardin	Hinchey	Menendez
Carson	Hinojosa	Millender-McDonald
Clay	Hoeffel	Miller, George
Clayton	Holden	Minge
Clement	Holt	Mink
Clyburn	Hooley	Moakley
Condit	Hoyer	Mollohan
Conyers	Inslee	Moore
Costello	Jackson (IL)	Moran (VA)
Coyne	Jackson-Lee (TX)	Murtha
Cramer	Jefferson	Nadler
Crowley	John	Napolitano
Cummings	Johnson, E. B.	Neal
Danner	Jones (OH)	Oberstar
Davis (FL)	Kanjorski	Obey
Davis (IL)	Kaptur	Olver
DeFazio	Kennedy	Ortiz
DeGette	Kildee	Owens
Delahunt	Kilpatrick	Pallone
DeLauro	Kind (WI)	Pascrell
Deutsch	Kleczka	Pastor
Dicks	Klink	Payne
Dingell	Kucinich	Pelosi
Dixon	LaFalce	Peterson (MN)
Phelps	Scott	Thurman
Pickett	Serrano	Tierney
Pomeroy	Sherman	Towns
Price (NC)	Shows	Traficant
Rahall	Sisisky	Turner
Rangel	Skelton	Udall (CO)
Reyes	Slaughter	Udall (NM)
Rivers	Smith (WA)	Velazquez
Rodriguez	Snyder	Vento
Roemer	Spratt	Visclosky
Rothman	Stabenow	Waters
Roybal-Allard	Stark	Watt (NC)
Rush	Stenholm	Waxman
Sabo	Strickland	Weiner
Sanchez	Stupak	Wexler
Sanders	Tanner	Weygand
Sandlin	Tauscher	Wise
Sawyer	Taylor (MS)	Woolsey
Schakowsky	Thompson (CA)	Wu
	Thompson (MS)	Wynn

NOES—220

Aderholt	Gillmor	Pease
Archer	Gilman	Peterson (PA)
Armey	Goodlatte	Petri
Bachus	Goodling	Pickering
Baker	Goss	Pitts
Ballenger	Graham	Pombo
Barr	Granger	Porter
Barrett (NE)	Green (WI)	Portman
Bartlett	Greenwood	Pryce (OH)
Barton	Gutknecht	Quinn
Bass	Hansen	Radanovich
Bateman	Hastings (WA)	Ramstad
Bereuter	Hayes	Regula
Biggert	Hayworth	Reynolds
Bilbray	Hefley	Riley
Bilirakis	Herger	Rogan
Bliley	Hill (MT)	Rogers
Blunt	Hilleary	Rohrabacher
Boehlert	Hobson	Ros-Lehtinen
Boehner	Hoekstra	Roukema
Bonilla	Horn	Royce
Bono	Hostettler	Ryan (WI)
Brady (TX)	Houghton	Ryun (KS)
Bryant	Hulshof	Salmon
Burr	Hunter	Sanford
Burton	Hutchinson	Saxton
Buyer	Hyde	Schaffer
Callahan	Isakson	Sensenbrenner
Calvert	Istook	Sessions
Camp	Jenkins	Shadegg
Campbell	Johnson (CT)	Shaw
Canady	Johnson, Sam	Shays
Cannon	Jones (NC)	Sherwood
Castle	Kasich	Shimkus
Chabot	Kelly	Shuster
Chambliss	King (NY)	Simpson
Chenoweth-Hage	Kingston	Skeen
Coble	Knollenberg	Smith (MI)
Coburn	Kolbe	Smith (NJ)
Collins	Kuykendall	Smith (TX)
Combest	LaHood	Souder
Cook	Largent	Spence
Cooksey	Latham	Stearns
Cox	LaTourette	Stump
Crane	Lazio	Sununu
Cubin	Leach	Sweeney
Cunningham	Lewis (CA)	Talent
Davis (VA)	Lewis (KY)	Tancredo
Deal	Linder	Tauzin
DeLay	LoBiondo	Taylor (NC)
DeMint	Lucas (OK)	Terry
Diaz-Balart	Manzullo	Thomas
Dickey	McCollum	Thornberry
Doolittle	McCrery	Thune
Dreier	McHugh	Tiahrt
Duncan	McInnis	Toomey
Dunn	McIntosh	Upton
Ehlers	McKeon	Vitter
Ehrlich	Metcalf	Walden
Emerson	Mica	Walsh
English	Miller (FL)	Wamp
Everett	Miller, Gary	Watkins
Ewing	Moran (KS)	Watts (OK)
Fletcher	Morella	Weldon (FL)
Foley	Myrick	Weldon (PA)
Fossella	Nethercutt	Weller
Fowler	Ney	Whitfield
Franks (NJ)	Northup	Wicker
Frelinghuysen	Norwood	Wilson
Gallegly	Nussle	Wolf
Ganske	Ose	Young (AK)
Gekas	Oxley	Young (FL)
Gibbons	Packard	
Gilchrest	Paul	

NOT VOTING—2

McKinney	Scarborough

□ 1707

Messrs. SIMPSON, CUNNINGHAM, CASTLE, POMBO, and Ms. DUNN changed their vote from ''aye'' to ''no.''

Mr. STUPAK, Ms. ROYBAL-ALLARD, Messrs. RODRIGUEZ, DAVIS of Florida, and SNYDER changed their vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). 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. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 205, not voting 2, as follows:

[Roll No. 485]

YEAS—227

Aderholt	Fletcher	Lucas (OK)
Archer	Foley	Maloney (CT)
Armey	Forbes	Manzullo
Bachus	Fossella	McCollum
Baker	Fowler	McCrery
Ballenger	Franks (NJ)	McHugh
Barr	Frelinghuysen	McInnis
Barrett (NE)	Gallegly	McIntosh
Bartlett	Gekas	McKeon
Barton	Gibbons	Metcalf
Bass	Gilchrest	Mica
Bateman	Gillmor	Miller (FL)
Bereuter	Goode	Miller, Gary
Biggert	Goodlatte	Moran (KS)
Bilbray	Goodling	Moran (VA)
Bilirakis	Gordon	Myrick
Bliley	Goss	Nethercutt
Blunt	Graham	Ney
Boehlert	Granger	Northup
Boehner	Green (WI)	Nussle
Bonilla	Greenwood	Ose
Bono	Gutknecht	Oxley
Brady (TX)	Hansen	Packard
Bryant	Hastert	Paul
Burr	Hastings (WA)	Pease
Burton	Hayes	Peterson (PA)
Buyer	Hayworth	Petri
Callahan	Hefley	Pickering
Calvert	Herger	Pitts
Camp	Hill (MT)	Pombo
Canady	Hilleary	Porter
Cannon	Hobson	Portman
Castle	Hoekstra	Pryce (OH)
Chabot	Horn	Quinn
Chambliss	Hostettler	Radanovich
Chenoweth-Hage	Houghton	Ramstad
Coble	Hulshof	Regula
Coburn	Hunter	Reynolds
Collins	Hutchinson	Riley
Combest	Hyde	Rogan
Cook	Isakson	Rogers
Cooksey	Istook	Rohrabacher
Cox	Jenkins	Ros-Lehtinen
Cramer	Johnson (CT)	Roukema
Crane	Johnson, Sam	Royce
Cubin	Jones (NC)	Ryan (WI)
Cunningham	Kasich	Ryun (KS)
Danner	Kelly	Salmon
Davis (VA)	King (NY)	Sanford
Deal	Kingston	Saxton
DeLay	Knollenberg	Schaffer
DeMint	Kolbe	Sensenbrenner
Diaz-Balart	Kuykendall	Sessions
Dickey	LaHood	Shadegg
Dooley	Largent	Shaw
Doolittle	Latham	Shays
Dreier	LaTourette	Sherwood
Duncan	Lazio	Shimkus
Dunn	Leach	Shuster
Ehlers	Lewis (CA)	Simpson
Ehrlich	Lewis (KY)	Skeen
Emerson	Linder	Smith (MI)
English	Lipinski	Smith (NJ)
Everett	LoBiondo	Smith (TX)
Ewing	Lucas (KY)	Smith (WA)

Souder	Thomas	Watts (OK)
Spence	Thornberry	Weldon (FL)
Stearns	Thune	Weldon (PA)
Stump	Tiahrt	Weller
Sununu	Toomey	Whitfield
Sweeney	Upton	Wicker
Talent	Vitter	Wilson
Tancredo	Walden	Wolf
Tauzin	Walsh	Young (AK)
Taylor (NC)	Wamp	Young (FL)
Terry	Watkins	

NAYS—205

Abercrombie	Gutierrez	Oberstar
Ackerman	Hall (OH)	Obey
Allen	Hall (TX)	Olver
Andrews	Hastings (FL)	Ortiz
Baird	Hill (IN)	Owens
Baldacci	Hilliard	Pallone
Baldwin	Hinchey	Pascrell
Barcia	Hinojosa	Pastor
Barrett (WI)	Hoeffel	Payne
Becerra	Holden	Pelosi
Bentsen	Holt	Peterson (MN)
Berkley	Hooley	Phelps
Berman	Hoyer	Pickett
Berry	Inslee	Pomeroy
Bishop	Jackson (IL)	Price (NC)
Blagojevich	Jackson-Lee	Rahall
Blumenauer	(TX)	Rangel
Bonior	Jefferson	Reyes
Borski	John	Rivers
Boswell	Johnson, E. B.	Rodriguez
Boucher	Jones (OH)	Roemer
Boyd	Kanjorski	Rothman
Brady (PA)	Kaptur	Roybal-Allard
Brown (FL)	Kennedy	Rush
Brown (OH)	Kildee	Sabo
Campbell	Kilpatrick	Sanchez
Capps	Kind (WI)	Sanders
Capuano	Kleczka	Sandlin
Cardin	Klink	Sawyer
Carson	Kucinich	Schakowsky
Clay	LaFalce	Scott
Clayton	Lampson	Serrano
Clement	Lantos	Sherman
Clyburn	Larson	Shows
Condit	Lee	Sisisky
Conyers	Levin	Skelton
Costello	Lewis (GA)	Slaughter
Coyne	Lofgren	Snyder
Crowley	Lowey	Spratt
Cummings	Luther	Stabenow
Davis (FL)	Maloney (NY)	Stark
Davis (IL)	Markey	Stenholm
DeFazio	Martinez	Strickland
DeGette	Mascara	Stupak
Delahunt	Matsui	Tanner
DeLauro	McCarthy (MO)	Tauscher
Deutsch	McCarthy (NY)	Taylor (MS)
Dicks	McDermott	Thompson (CA)
Dingell	McGovern	Thompson (MS)
Dixon	McIntyre	Thurman
Doggett	McNulty	Tierney
Doyle	Meehan	Towns
Edwards	Meek (FL)	Traficant
Engel	Meeks (NY)	Turner
Eshoo	Menendez	Udall (CO)
Etheridge	Millender-	Udall (NM)
Evans	McDonald	Velazquez
Farr	Miller, George	Vento
Fattah	Minge	Visclosky
Filner	Mink	Waters
Ford	Moakley	Watt (NC)
Frank (MA)	Mollohan	Waxman
Frost	Moore	Weiner
Ganske	Morella	Wexler
Gejdenson	Murtha	Weygand
Gephardt	Nadler	Wise
Gilman	Napolitano	Woolsey
Gonzalez	Neal	Wu
Green (TX)	Norwood	Wynn

NOT VOTING—2

McKinney	Scarborough

□ 1724

Mrs. ROUKEMA changed her vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, 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 Senate to the bill (H.R. 2606) ''An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.''

The message also announced that pursuant to Public Law 104–1, the Chair, on behalf of the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, announces the joint appointment of the following individuals as members of the Board of Directors of the Office of Compliance—

Alan V. Friedman, of California;

Susan B. Robfogel, of New York; and

Barbara Childs Wallace, of Mississippi.

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Speaker, this afternoon I recorded my vote by electronic device in favor of the rule to consider the Quality Care for the Uninsured Act, H.R. 2990. Subsequently and unexpectedly, that vote was reordered due to a failure with the electronic eqipment, and I was not advised of this in time to return to the Capitol to recast my vote.

BIPARTISAN CONSENSUS MANAGED CARE IMPROVEMENT ACT OF 1999

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to House Resolution 323 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2723.

□ 1725

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL), the gentleman from Pennsylvania (Mr. GOODLING), the gentleman from Missouri (Mr. CLAY), the gentleman from Texas (Mr. ARCHER), and the gentleman from New York (Mr. RANGEL) will each control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, over 5 years ago, Republicans in Congress stood efficient against a very bad idea, an attempted Government takeover of our Nation's health care system. Back then, we opposed President Clinton's vision of health care reform primarily because of the negative effects his proposal would have on employers and the negative effects it would have on consumers' ability to choose their own physicians.

Mr. Chairman, we won that debate over how to best reform our health care system. We won that debate because the public agreed that Government micromanagement of our health care system was wrong. The public agreed that imposing expensive new burdens on employers would result in an increase in premiums and would cause businesses to drop their health care coverage.

Now today we are faced with another debate about the direction of our Nation's health care system. Mr. Chairman, once again, we must decide whether we want to move toward a Government-controlled health care system or instead enact reasonable protections for patients that maintain quality without driving up costs. I stand here today with a firm hope that we will prevail in this fight similar to the way we did 5 years ago.

Mr. Chairman, I do not think that anyone would question my long-standing commitment to ensuring that the United States maintains its high quality health care system and that Americans of all walks of life have access to that system.

□ 1730

Unfortunately, I believe that H.R. 2723, the Norwood-Dingell bill, is misdirected in several fundamental ways and ultimately will harm the very people it intends to help.

My views on health care reform are fairly straightforward. First, we should do no harm. Doctors take the Hippocratic oath; we legislators should follow a similar injunction. We should vote down health reform legislation that harms patients. We should avoid legislation that increases the number of uninsured in this country. For all the attention that has been given in this debate to denied care, I think we should focus on the worst kind of denial, and that is denial to any form of health insurance at all.

Forty-four point three million persons are uninsured today, and we ought not be adding to that number; we should be subtracting from it.

Second, when we do enact patient protections, they should be just that, patient protections; not provider protections, not insurer protections but patient protections. That is why I have been an ardent supporter of a fair and just external review process.

My colleagues have heard me say ''care, not court.'' A patient in need of care needs medical treatment not legal treatment. In my opinion, H.R. 2723 goes way too far on liability and will simply be a treasure trove for trial lawyers.

By overreaching on the constraints it imposes on valid cost containment techniques, this bill poses a real threat to the voluntary, employer-sponsored health insurance system prevalent today.

I know how price-sensitive employers are. I was a small business owner myself some time ago. The Norwood-Dingell bill takes a reasonable idea, and then it takes it way too far. As a result, costs will needlessly go up and not always for the betterment of health care quality. For example, the bill does not have a point-of-service exemption for small employers. Due to this omission, many small business owners, who can least afford to contribute to health care coverage for their employees, will be left with the choice between providing Cadillac care or no care at all. Many of their employees will lose their employer-sponsored insurance because the point-of-service mandate will drive health care costs up.

The bill's whistleblower provision is another example of a reasonable idea gone bad, and the list goes on.

This bill micromanages a plan's utilization review requirement.

It gives too much secretarial authority in the selection of external review entities and in specifying the standards of review.

Even the bill's definition of medical necessity extends beyond what is needed to ensure that patients receive the most appropriate care.

Mr. Chairman, I could go on and on and discuss other concerns I have and point out the breadth of the bill's onerous ''any willing provider'' provisions and the lack of a conscience clause, but there are other Members here who wish to have their say.

Let me simply conclude as follows: As the chairman of the Committee on Commerce, I have reached across the aisle to draft reasonable patient protection legislation with my colleagues. While some amount of this bill reflects that effort, in the end the authors went too far, as I have said. This is unfortunate, and this is why I have cosponsored H.R. 2926 instead.

As I have said, my goals throughout have been to provide better, not worse, care to the American people; to provide access to needed medical care, not to courts of law; and to provide patient protections, not protections for the interests of providers or insurers.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that I may yield 15 minutes of the time available to me to the gentleman from Georgia (Mr. NORWOOD), to be controlled by him.

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

There was no objection.

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

Mr. Chairman, I appreciate the opportunity finally, after 5 years, for us to come together and decide an issue that has really confronted this body for 5 years, but the truth is it has confronted the American patient for 25 years.

The issue is whether managed care insurance companies can be held truly accountable in court when they breach their contract and someone is injured or dies.

Since 1974, this Congress has given HMOs a free pass to deny promised benefits without any legal responsibility for the damages that they do and have caused.

Are we willing to correct this injustice, finally, after 25 years? If so, we simply must pass a bill that can become a law which reverses that 1974 mistake, and a bill that we are certain will be signed by the President. We must also be able to answer in the affirmative the following question: If someone makes a wrongful medical decision or breaches their contract and a member of someone's family dies, will that family have an absolute, unconditional right to seek redress in court? Yes or no, no strings attached?

There is only one bill that we will consider that can pass this test, and that is a bipartisan bill supported by both Republicans and Democrats. I believe that everyone in this body knows that to be a fact. To cast a vote really for any other bill is to cast a vote to block managed care reform.

Not one Member of this body will be able to hide behind a vote for a watered-down bill that cannot become a law and claim to be on the side of patients. We know better. The American people know better. Vote no, Mr. Chairman, on every substitute. Vote yes on the only legislation that has really a chance of becoming law and changing the disaster that this Congress visited on the American people with the 1973 HMO Act and the 1974 ERISA Act.

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

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

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

Mr. DINGELL. Mr. Chairman, this is an old story. Last year, the industry spent $75 million to defeat legislation similar to that which we are considering today. Reports today indicate they will be spending in excess of $100 million for that purpose. Tonight they will be launching another new ad campaign with pictures of sharks and music from Jaws.

What scared them so much? Could it be they are afraid of paying for someone's cancer screening? Are they terrified of paying for surgery to some person who needs it? Is it the threat of paying for prescription drugs that has them petrified? Or maybe they are afraid of letting ordinary people make the decisions that affect their own lives.

Maybe they are afraid of the mother whose child has leukemia and wants the pediatrician to decide what care her child needs or perhaps a terminally ill cancer patient who has no other treatment available to save his life, other than a clinical trial.

Perhaps that patient needs to have an oncologist as his principal medical advisor. Maybe it is a woman in her second trimester of pregnancy whose doctor is dropped from the health care plan, or maybe it is a woman with breast cancer who has a mastectomy and is sent home that same day, or the man with a stroke who needs follow-up visits to a physical and speech therapist to regain full function.

The Norwood-Dingell bill would help each of these people get and continue the health care they need. None of the other substitutes can truthfully make that claim. The gentleman from Georgia (Mr. NORWOOD) and the gentleman from Iowa (Mr. GANSKE) and I have been working on these issues for years. Our bill has been totally vetted. We have even incorporated suggestions from other Members, including the gentleman from Oklahoma (Mr. COBURN) and the gentleman from New York (Mr. HOUGHTON).

We are going to hear a lot of rhetoric about lawsuits, and it is one thing which is perhaps one of the significant differences between these bills. Yes, we allow patients to hold their health care plans accountable if they cause harm or death when they make a medical decision. That should be. A right without a remedy is of no value.

All we have done is the same thing they did in Texas, where a law enacted during the tenure of Governor George Bush does these things. In 2 years since that law has been in effect, Texas has had exactly 5 lawsuits. The cost of such a situation, according to Coopers & Lybrand, a major accounting firm, amounts to 13 cents a month.

Let me remind all here, only one of these bills that is considered today was written before yesterday. They are all brand new, except the one which is offered by the gentleman from Oklahoma (Mr. COBURN), the gentleman from Iowa (Mr. GANSKE) and I.

All of our bills have been examined in broad daylight. The others have not. There is only one bipartisan bill. There is only one that has a chance of being signed into law. Only one has been endorsed by more than 300 organizations, including doctors, teachers, consumers, union members, specialists, women and others, including the league of voters, and all of the consumer organizations.

Only one has a chance of really making life better for people who buy health insurance and only one gives the people a clear right to the care which they need and which they deserve. Only one will be signed by the

President. Vote for Norwood-Dingell and support a bill that is going to benefit the people.

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

Mr. BLILEY. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, I thank the gentleman from Virginia (Mr. BLILEY) for yielding time to me.

Mr. Chairman, as a former attorney who practiced malpractice law and defending health care providers, I can say part of the problem with our health care system is the cost of that. It is simply too expensive. A lot of that cost is driven up by lawsuits where doctors have to practice defensive medicine in the event they might be sued later on. Common sense would tell us that if we are going to try and work in this situation and make health care more affordable and more accessible, then common sense would tell us that we ought to be able to try and reduce the cost here so that we can make health care more affordable and keep more people in the health care market. That would be the commonsense approach.

Now, the other approach, which is supported by the President and some here in Congress, would seem to allow the public to sue their way to more affordable health care; but according to the Congressional Research Service, expanding liability in an unrestricted fashion could result in private employer-sponsored plans, and these are the people who provide insurance to their employees, it could cause these plans to increase by 70 to 90 percent in premiums.

Just as medical malpractice liability induces health care providers to practice defensive medicine, again do this so I will not be sued or in case I am sued I have myself covered here, so would expanding liability to managed care in an unrestricted fashion. It would result in those employers and insurers and HMOs and third party health plan administrators beginning to approve unnecessary or inappropriate tests and procedures that are expensive, that will drive up the cost, all out of a fear of being sued. These added costs would then have to be passed on to employers who would then have to pass them on to their employees in the form of increased premiums and planned administration fees or simply do the easy thing and that is just quit providing health insurance to their employees.

Why fight that? If someone thinks suing a company for $4 million for a spilled cup of coffee was excessive, wait until they see some of the lawsuits and some of the awards which could result from the passage of this plan.

With health care representing over one-seventh of our economy, the odds of hitting the lawsuit lottery will expand exponentially. If the cost of providing health insurance actually goes up under this plan, which is supported by the President, who actually benefits? The discussion from the other side would have people believe it is the public; but if the costs go up, I fail to see how it is going to help those 44 million Americans that we have talked about heretofore afford health care coverage.

So who, in reality, does benefit from more lawsuits? Well, who gets over one-third in fees of the millions of dollars which have been awarded in our lottery-style court system? I think if we answer that question, we will find out who actually is being protected here; and those are some of those trial lawyers.

□ 1745

Mr. Chairman, this is not hard. Let us not turn this patient protection effort into a lottery. Let us instead try to find a way to find a balance here that would hold managed care people accountable, they ought to be held accountable, but yet do so in a fashion which does not drive up the cost of this health care; does not cause them to practice defensive medicine for fear of being sued or for these lottery-style judgments, but yet do the right thing and also keep these employers in the business of providing insurance for their employees.

What we do not want to do by this plan is to put more people into that 44 million uninsured classification simply by virtue of the fact that it is just easier, less expensive, less risk involved if they do not provide health care insurance for their employees, and I think we can do that.

Mr. Chairman, I trust this Congress has that ability to pass such a law that would provide that proper balance of accountability weighed against the cost and exposure and the risk and people dropping out of the market. I hope we can.

Mr. NORWOOD. Mr. Chairman, I yield myself 1 minute which I need to respond to my friend from Tennessee.

I am delighted that our lawyer friends would like to see some type of legal reform.

Would I agree that we need to stop the extortion, and frivolous lawsuits and all those things that cause defensive medicine prices to go up that I have lived with all of my life? Absolutely right. But legal reform can never mean that we take the civil rights or the due process away from 160 million Americans across this country and simply say, In your case with health care insurance you're on your own, baby.

Now we have got external review that is going to stop most of that anyway; it is going to be very hard to be negligent. And I think we are not going to find this big rash of lawsuits. But to say, Americans, the justice system is not there for you when somebody denies you a benefit that damages you and kills your child, what kind of justice system is that? Are we going back to six guns and the OK Corral when one is wronged? No, I do not think so.

The good news is that ours is very modest. We go back to the States where we took this away from them in 1974.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HORN).

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

Mr. HORN. Mr. Chairman, for all the controversy surrounding this debate the issue is very simple: responsibility. Just as doctors are held accountable for the care they provide, just as manufacturers are held accountable for the safety of their products, so too should HMOs be held accountable for the consequences of their decisions.

Mr. Chairman, the Norwood-Dingell-Ganske bill simply sets up mechanisms to enforce the existing contractual agreements between patients and their health insurance providers. No health insurance plan should be allowed to avoid paying for necessary medical treatment for those who have faithfully paid their premiums each month by inventing its own definition of medical necessity. When health plans tell consumers that a requested treatment is not medically necessary, they are practicing medicine as much as a doctor who reaches the same conclusion. This shield of ERISA allows HMOs to escape the consequences of their decisions.

I know of no other business in America which has such immunity. With this bill we want to drive the quality of health care in this country not by encouraging lawsuits, but by encouraging HMOs to use the best medical science when providing care instead of using the bottom line. Medical necessity must be determined by physicians and their patients, not by MBAs and people that have not had a medical experience and not by profit margins and HMO bureaucrats. Norwood-Dingell-Ganske is the only bill that does just that. Support it.

Mr. Chairman, for all the controversy surrounding this debate, the issue is very simple. Responsibility. Just as doctors are held accountable for the care they provide, just as manufacturers are held accountable for the safety of their products—so too should HMOs be held accountable for the consequences of their decisions.

The Norwood-Dingell bill simply sets up mechanisms to enforce the existing contractual agreements between patients and their health insurance providers. No health insurance plan should be allowed to avoid paying for necessary medical treatment for those who have faithfully paid their premiums each month by inventing its own definition of ''medically necessity.'' When health plans tell consumers that a requested treatment is not ''medically necessary,'' they are practicing medicine as much as a doctor who reaches the same conclusion. This shield of ERISA allows HMOs to escape the consequence of their decisions. I know of no other business in America which has such immunity.

With this bill, we want to drive the quality of health care in this country—not by encouraging lawsuits, but by encouraging HMOs to use the best medical science when providing

care, instead of using the bottom line. Medical necessity must be determined by physicians and their patients, not by profit margins and HMO bureaucrats. Norwood-Dingell is the only bill that does just that.

Mr. BURR of North Carolina. Mr. Chairman, I ask unanimous consent that I be permitted to control the time of the gentleman from Virginia (Mr. BLILEY).

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

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I rise in very strong support of the Bipartisan Consensus Managed Care Improvement Act of 1999. I commend the gentleman from Georgia (Mr. NORWOOD) for his heroic leadership in this issue.

The passion of the gentleman from Michigan (Mr. DINGELL) for health care was inherited from his father, John Dingell, Sr., who introduced the first bill in Congress to make health care available to all Americans, and I am sure that he would be very proud of his son today. At last we can enact real managed care reform and improve patient care across this country. The Norwood-Dingell bill was not written by special interest groups. It is the result of listening to what I call the other voices, those of patients and providers who have been left out of this dialogue.

As a nurse, I am also speaking on behalf of over 2 million nurses who have known for a long time that HMO reform is necessary, and I am proud that the American Nurses Association has offered a strong endorsement of this legislation, and I enter their letter as part of the RECORD:

AMERICAN NURSES ASSOCIATION,
Washington, DC, September 29, 1999.

Hon. LOIS CAPPS,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE CAPPS: As the House prepares for floor consideration of patient protection legislation, I am writing to express the American Nurses Association's strong support for the Bipartisan Consensus Managed Care Improvement Act of 1999, HR 2723.

The American Nurses Association is pleased to endorse this bill and is encouraged by the cooperation and compromises made to achieve real progress on managed care reform. This legislation constitutes an important step in assuring that strong, comprehensive, and enforceable protections will be in place for all insured Americans.

ANA believes that every individual should have access to health care services along the full continuum of care and be an empowered partner in making health care decisions. Given the nursing profession's preeminent role in patient advocacy, ANA is particularly heartened by the steps proposed to protect registered nurses and other health care professionals from retaliation when they advocate for their patients' health and safety. As the nation's foremost patient advocates, registered nurses need to be able to speak up about inappropriate or inadequate care that would harm their patients. Nurses at the bedside know exactly what happens when care is denied, comes too late or is so inadequate that it leads to inexcusable suffering, which is why the strong whistleblower protection language in this bill is critical to patient protection legislation.

ANA also believes that accountability for quality, cost-effective health care must be shared among health plans, health systems, providers, and consumers. The provisions of HR 2723 that assure a truly independent appeals system and legal accountability for health plans are reasonable and necessary if we are to have reform that is comprehensive and enforceable for all participants in the health care system.

This important bipartisan compromise also includes an important requirement that health plans allow patients to have access to a full range of health care providers, with no discrimination against some providers solely on the basis of type of licensure. ANA also strongly supports the provision assuring that women have direct access to providers of obstetric and gynecological services.

The American Nurses Association, which represents registered nurses throughout the nation who practice in every health care setting, urges support for HR 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999, the only patient protection bill to be considered by the House that will bring about genuine reform in our health care system.

Sincerely,

BEVERLY L. MALONE,
President.

This bill contains common sense provisions so important in the lives of ordinary Americans. It allows patients to choose their doctor and hospital and to see needed specialists. It leaves the determination of medical necessity with doctors, not insurance clerks. It guarantees emergency room care and ensures access to clinical trials. It allows patients recourse when they have not received proper care. This bill also includes whistle-blower protections which prevent nurses and other health care professionals from being fired if they report dangerous abuses.

Mr. Chairman, in my travels around the central coast of California it is heartbreaking to listen to so many families whose HMO horror stories have ruined their lives. In this, the greatest Nation of the earth, the time has come to put patients before profits. Let us pass this bipartisan bill. Stop the abuses of managed care.

Mr. BURR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. I thank the gentleman from North Carolina for yielding this time to me.

As my colleagues know, several times today we have asked ourselves why we are here, and what we have already heard in the first part of the debate is some of us are here to take a cheap partisan shot, some of us are here to build a career in Congress, some are here to get an electoral advantage. I am here to help patients, and I have already heard that the only bill that can do that is the bipartisan bill, and I adamantly and flatly disagree with that.

The American public needs to ask themselves why the persecution complex of the American Medical Association would say because we get sued so much we want everybody else sued.

There is a 1990 study out of the University of Indiana that says American doctors at that time ordered $33 billion worth of tests that were unneeded because of the fear of being sued. It is a legitimate concern to consider what the unintended consequences of uncontrolled lawsuits are going to be. Some will say we are going too far. That is what people say about the bipartisan bill. Some would say we are not going far enough. That is what they say about the Boehner bill. What we have to do is find a balance between both extremes, one that holds plans accountable, that does not raise costs and in fact can be enacted.

There is some perverse incentives out there that my friend, the gentleman from Georgia (Mr. NORWOOD), and the gentleman from Iowa (Mr. GANSKE) have worked hard to try to change with their bills, and I applaud them in their efforts to doing that. But to get a bipartisan bill, what happened is the group of people that they listed in support of their bill, they just happened to fail to mention that the trial lawyers are in strong support of their bill. Why would they be? Because one out of every $3 that is ever going to come out of this system to, quote, ''protect patients'' is going right into their pockets.

So there needs to be a balance; there needs to be accountability. We can do that.

And some have talked today about poison pills. We need to be real careful with that because, if in fact we care about patients, there is no such thing as a poison pill, there is no such thing as a poison pill. If my colleagues care about fixing the great inequality in our laws for patients, if my colleagues care about the future of voluntarily giving workers benefits, if my colleagues care about restoring the responsibilities on both sides of the doctor and patient relationship, then we cannot have too far reaching either way. We have got to have a balanced approach.

There is going to be several votes that we are going to take. If my colleagues care about fairness and finally again if my colleagues care about patients, they are going to consider the one that is just right, the one in between, the one that holds plans accountable, that does not raise the costs.

And, Mr. President, I would say to him, When you talk about vetoeing a bill that has access, that has limited liability, what you are saying is you really don't care about patients either. What you care about is a partisan political advantage and the fact that we will not enact a law that will save our patients and give them the freedom that all the rest of us have.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 2 minutes.

I am going to vote for the Norwood-Dingell-Ganske bill and against all the substitutes, and here is why:

The Norwood-Dingell-Ganske bill is the product of negotiations among

three Members of Congress who believe in patient protections so strongly that they have devoted more than 3 years to the passage of comprehensive reform. They know what they are doing, and the Norwood-Dingell-Ganske bill gets it. To protect patients we just cannot fix discrete problems as they pop up. We would be at that task forever. We need to make it in HMO's best interest to do the right thing without hand holding or without prompting. That is what accountability is all about; that is what the Norwood-Dingell-Ganske bill does.

As most of my colleagues know, Texas allows its citizens to sue managed care plans in State court. This bill says that all Americans should have that same right as people in Texas do. Most of my colleagues probably also know that there have been only five cases in the 2 years since the Texas law went into effect.

One of those cases should silence every single opponent of the Norwood-Dingell-Ganske bill. It involves a doctor who refused to refer his patient to a specialist. Why? It turns out that the patient's HMO told this doctor that if he referred even one more patient to a specialist, he would be kicked out of the provider network permanently and financially penalized. Apparently, Mr. Chairman, he had passed his quota.

Managed care organizations take huge gambles that they perceive as benign business decisions at our expense. We need to raise the stakes. That is what the Norwood-Dingell-Ganske bill does. If we want to protect patients now and in the future, it is the bill we should all vote for.

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

Mr. BURR of North Carolina. Mr. Chairman, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Mr. Chairman, I think we just need to address what was just said because what was just said was misspoken.

The State of Texas allows a suit on quality of care only, not on benefits. The Norwood-Ganske-Dingell bill covers both of those. The coalition bill allows any State to set up the same law that Texas has, but it reserves the right for benefits to the ERISA plans where they should be reserved.

So any State can do what Texas can do under either of the two options.

□ 1800

Mr. NORWOOD. Mr. Chairman, it is my great privilege, pleasure, and honor to yield 3 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I thank the gentleman from the great State of Georgia, who has led the fight on patient protection, for yielding me this time, and my colleagues on the other side of the aisle, the gentleman from Michigan (Mr. DINGELL), and so many others that I recognize from the many nights we have had here on the floor.

Mr. Chairman, why are we here? We are here because patients have been harmed by HMOs because they have made medical decisions. It started out a couple years ago. Remember, we had 285 cosponsors to ban gag clauses.

Here we have a cartoon, a doctor is talking to his patient, he says, ''Your best option is cremation. $359, fully covered.'' The patient is saying, ''This is one of those HMO gag rules, isn't it doctor?''

There were problems with all sorts of denials of care; right? Here is the HMO claims department. ''No, we don't authorize that specialist. No, we don't cover that operation. No, we don't pay for that medication.'' And the lady at the desk at the HMO suddenly hears something and she says, ''No, we don't consider this assisted suicide.''

Or how about the HMOs that decided they were going to do drive-through deliveries. Here we have the counter at the hospital drive-through window. ''Now only 6 minute stays for new moms.'' And we have the mother there, her hair like this, getting her baby.

And, do you know what? This affects real people. This lady here with her family is no longer alive because an HMO made a medical decision where she lost her life.

This lady who fell off a 40-foot cliff found that her HMO would not pay her bill because she did not phone ahead for prior authorization.

This is a patient of mine, a child born with a birth defect. Guess what? Fifty percent of the surgeons who correct this have found that HMOs deny coverage for this birth defect because it is ''cosmetic.''

And this little boy, this beautiful little boy, clutching his sister's shirt sleeve. Guess what? After his HMO care, he no longer has any hands and feet, and the judge that looked at that case said that HMO's margin of safety was ''razor thin.''

Look, I call upon my colleagues on both sides of the aisle: Vote for the bill that will correct these HMO abuses. Vote for a bill that will make sure that patients do not lose their hands and their feet before it happens. That is the Norwood-Dingell bill. It is the only bill that has been endorsed by over 300 organizations. It is the only bill that has been endorsed by nearly every consumer group, by nearly every patient advocacy group, by the provider groups, by the AMA. It is the only bill that the AMA has endorsed. The AMA is recommending a ''no'' vote on all substitutes. Look, why is that? It is because we need to fix this Federal law.

Mr. BURR of North Carolina. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me say that I hold in high regard my colleagues on both sides of the aisle that are here on different sides of this debate.

I hope the fact that we have seen the works of political satirists and comics is not an indication that health care policy in this institution will be driven by the jokes that we see in the newspapers but that it will be driven by the policies that we should adopt about those real people.

Mr. Chairman, I think that the forgotten folks in this debate are the 200-plus million people that are insured, many of whom are happy with the system. You know, we do have the best health care delivery system in the world, and I hope that that is not something that would be challenged on this floor. It is not a system that we want to change the gold standard that we have set. Nor is ours a system where the American people want to wait for procedures, like they do in other countries.

I am confident that it is, in fact, the wish of the American people that Congress do no harm to the system. Is there room for improvement? There always is. I remember when I became a Member of Congress, I took the same health care coverage that I had in North Carolina, only to find out that the cost of it was some $30 higher than the 50-person company I worked for. It was, needless to say, something that I had to inquire as to why.

That health care company said to me, ''Richard, never let the Federal Government negotiate your health care.'' That stuck with me ever since then, because it gets at the heart of cost, and it also gets at the heart of the quality of the services provided.

I am hopeful that through this debate we can separate the rhetoric and the policy and truly come up with the right direction.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY), a member of the committee.

Mr. MARKEY. Mr. Chairman, back 4 years ago the gentleman from Iowa (Mr. GANSKE) and I introduced a gag bill, a bill that said that physicians should not be gagged in telling a patient that they might need some additional help, some additional services outside of the scope of what the HMO might want to provide. We had 169 cosponsors on our bill in the 104th Congress. We had 302 cosponsors on that bill in the last Congress, but the Speaker of the House would not allow us to debate it out here on the floor of Congress.

We have come a long way since that point, not that long ago, when that was controversial in the minds of the majority, of the Speaker, a gag rule.

The gentleman from Iowa (Mr. GANSKE) and I are looking back at that as though it is ancient history, because this debate has moved far beyond that now. The majority wishes they could just work on the gag rule now, ''How do we go just on that?'' But that issue is passed by, and as each issue goes to the public and they understand it more, the Republicans get educated more.

Now we are down to the question of whether or not, if an HMO engages in practices which are really wrong, that an injured family should be able to sue,

to say something went wrong; my family member got hurt. The public understands this issue. It is 75–25. ''Give me and my family the right to be able to protect ourselves. Allow me to be able to sue someone who harmed my family member.''

They are debating on this final issue now, but it is going to go in. If it does not go in this Congress, it is going in the next Congress. And you should view that gag rule as past being prologue. Vote for this substitute today, and give the American people what they need, protections for their families today across our country.

Mr. BURR of North Carolina. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Chairman, when we come to the well of the House to speak, we can make speeches about the things that divide us. And we can do that for partisan reasons or other reasons. Or we can choose to come and talk about the things that unite us and then try to examine our differences. We are, in fact, united within the Republican Party and among Republicans and Democrats on most of what will be debated today and most of what will be debated tomorrow.

We all understand that managed care has brought us savings, but it has also put insurance companies between doctors and patients, and that is not good.

All of us, all of the plans, all four of them that will be debated agree on that and have good provisions to protect patients. We are not fighting about that. What we do have a legitimate difference of opinion about is the extent to which patients ought to be able to sue their insurance companies. That is a legitimate difference.

In fact, three of the four versions that we will vote on, two Republican and one Democrat version, will allow patients to sue their insurance companies if they have been harmed by them, so we are not even fighting about that. The one plan that does not allow suits, as everybody knows, that is going to fail and get the least number of votes of all of them.

So now the whole debate about which people will try to make political hay for reasons of elections is really about what is the best structure to allow patients to get accountability and to get redress when they are really hurt, which does not create a feeding frenzy for the trial bar. That is what this is about.

The gentleman from Georgia (Mr. NORWOOD), whom I respect immensely, a good friend of mine, has one version. Our bill, which we now call Goss-Coburn-Shadegg-Greenwood, et cetera, has another version, and the gentleman from South Carolina (Mr. GRAHAM) has yet another version.

We are going to have a good debate for the next two days. And if we can stop trying to make political hay out of it and try to figure out what is good for the American people, I have a feeling that this House will pick the right and wise position.

I advocate for the position that the gentleman from Colorado (Mr. COBURN) and the gentleman from Arizona (Mr. SHADEGG) and I and the gentleman from Florida (Mr. GOSS) have structured. We think it is the midpoint. We think it allows accountability, unlike the Boehner proposal, but it does not allow wide open accountability, which we think would generate too many lawsuits, which would then be settled by the insurance companies day in and day out, raise the cost of insurance, and cause employers to stop offering insurance to their employees because the cost is high.

So we think that our version, the Goss-Coburn-Shadegg-Greenwood substitute, strikes the midpoint, and I would urge all of my colleagues to support us in that position.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE), who worked incredibly long hours in support of this legislation.

Mr. PALLONE. Mr. Chairman, I have great respect for the previous speaker, the gentleman from Pennsylvania, but I think he suggests that somehow there are not great differences between these various bills. And I do not think that is true.

There are two goals in the Norwood-Dingell bill, and each of the other substitutes that we are going to vote on tomorrow takes away from those goals I think in a significant way. And that is why Members should vote for Norwood-Dingell and not any of the other three substitutes.

Those two goals, which I have spoken about many times in the well, are as follows:

One is the issue of medical necessity. The bottom line is the decision of what kind of care you get, whether you get a particular operation or procedure, whether you can stay in the hospital a certain number of days. That basically is defined by what is medically necessary.

What the Norwood-Dingell bill says is that that decision, what kind of care you get, what is medically necessary, is going to be made by doctors and by the patients and not by the HMOs, not by the insurance companies.

The second goal in the Norwood-Dingell bill is to enforce your rights. If that decision about what kind of care you make goes the wrong way, you should be able to go either through an independent review board or through the courts, if necessary, in order to enforce your right. It is an enforcement issue.

The bottom line is that the Norwood-Dingell bill provides for a very good enforcement mechanism. It says that when you want to appeal a decision because of a denial of care, you are going to go to an independent review board, not under the authority, if you will, of the HMO. And they are going to define what is medically necessary, what kind of care you get, and they can overturn a denial of care. Failing that, you can go to court.

All of the substitutes take away from those two goals, and that is why you should vote against the substitutes and vote for Norwood-Dingell.

Mr. NORWOOD. Mr. Chairman, it is now my great pleasure and honor to yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

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

Mrs. ROUKEMA. Mr. Chairman, I want to say this is really wonderful. I want to congratulate the gentleman from Georgia (Mr. NORWOOD), the gentleman from Iowa (Mr. GANSKE), the gentleman from Michigan (Mr. DINGELL), and all of the others who cosponsored this legislation, because we are finally getting past bureaucrats and HMOs practicing bottom line medicine.

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We are putting the medical decisions back in the hands of the medical professionals, where they belong. I think that has been more than adequately explained by those who have come before me.

I guess I have to recognize that there has been another straw man put up here, and misinformation on lawsuits and so forth, in that somehow this legislation is an open door to the courthouse. That is not true. That is not on the facts. There are strict appeals processes, strict grievance procedures, and lawsuits are only the last resort.

Mr. Chairman, I guess I also have to say that I had an interesting conversation with a host of a radio show the other day that I think more than anything explains why this provision for appeals process and Federal and State court access to the legal liability is necessary.

This was a Christian radio station. They were interviewing me. The host was a conservative-oriented host, okay? We discussed a number of things. All of a sudden he says, Congresswoman, you know what, a builder who built my house, we closed on the house and I thought I had a good contract with him. I thought everything was well explained. But I no sooner moved into the house than the foundation was weak, the roof leaked, I had to replace the roof, and by God, he was refusing to deal with it, Congresswoman. Of course, I went to court.

Would you tell me that if my mother died because of a denial of treatment by an HMO, that I should not have the ability to go to court?

Mr. Chairman, knowing that these procedures are very specific, can we really say to our constituents, conservatives and liberals alike and everybody in between, no, you cannot file a grievance procedure when your mother died, but you can take your homebuilder to court?

Mr. Chairman, last year, the House conducted a similar debate on the future of health

coverage for working Americans—an issue of critical importance for every family in our Congressional Districts. At that time, I stood on this floor and asked, ''Is this as good as it gets?''

The answer last year was a disappointing ''no.''

But 1999 may be different. The debate over who makes medical decisions for our family members—doctors or insurance company bureaucrats practicing ''bottom line medicine''—has moved forward significantly.

Today, after this debate, the House will vote on no less than three pieces of legislation that protect a patient's access to necessary medical services AND ensure a patient's right to hold health plans responsible for their treatment decisions.

All three have been drafted by Republican Members of this House and all three move the public policy debate in the right direction. This is a victory for families everywhere.

So, ''Is this as good as it gets.''

Well, if this House passes the Norwood measure then the answer will be yes. The Norwood bill, which I am a proud co-sponsor, includes many significant improvements in Patient Protections. It includes:

Emergency Services.—The bill says that individuals must have access to emergency care, without prior authorization, and under a ''prudent layperson'' standard.

Direct Access to ob/gyn care and services, including direct access to all covered obstetric and gynecological care, including follow up care and direct access to a broad array of qualified health professionals for ob/gyn care.

Direct Access to Pediatric Care by ensuring access to appropriate specialists for children and pediatricians as primary care providers. The list goes on.

But let's face it—the crux of this debate is about one issue—protecting a patient's ability to hold HMOs accountable for any negligent actions—the ability for patients to sue.

But an important point must be understood here. This legislation is not an open door to the courthouse. The bill contains a strict grievance procedure if a plan denies a claim, including a legally binding independent external review done by a panel of medical specialists. If a plan does not follow the recommendation of the grievance procedure than the patient may seek judicial relief in state court. Since the external review language is so prescriptive, most claims should be taken care of at this level, rather than the courthouse. This bill reduces the need for costly court cases by setting up a straightforward appeals process for grievances.

Lawsuits Are the Last Resort.—The bill only allows suits for personal injury or wrongful death and this greatly limits the type of suits that can be filed under the bill. The bill does not allow suits and damages for persons who weren't harmed and does not allow suits and damages for benefits that weren't covered by the plan.

Employers Are Protected.—Much has been said that opening plans up to liability will trap small businesses in a swamp of litigation that will eventually force them out of business.

Well let's set the record straight. Small employers usually contract out with insurance companies to administer the health plans, thus these small employers don't exercise discretionary authority. In an explicit provision in the Norwood bill, only employers who exercise discretionary authority (i.e., make medical decisions/pre-certification and utilization review) can be held liable along with the health plan.

So, Mr. and Mrs. Small Business, unless you are at the table with your insurance company bureaucrats using discretionary authority to design your own health plan, you are shielded from liability. So the claim that you will be sued out-of-business simply does not hold water.

Mr. Chairman, I don't know if this is as good as it gets, but it is better than last year and a world of difference from current law where insurance company clerks and accountants are making medical decisions about our loved ones.

Support the Norwood bill.

Mr. BURR of North Carolina. Mr. Chairman, it is my honor to yield 1 minute to the gentleman from Florida (Mr. MCCOLLUM).

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

Mr. MCCOLLUM. Mr. Chairman, well-intentioned HMOs have run amok, and tomorrow we are going to have an opportunity to correct some of the more glaring deficiencies and to allow more choice, more right to choose the doctor you want, and for doctors to get more control over their patients' care.

The principal bone of contention we have in this legislation and the choices we have is over the decision-making with regard to redress and negligence, when that occurs in the HMO circumstance. Norwood-Dingell allows tort claims in State courts as the last resort, but fails to require the exhaustion of administrative remedies before administration, and contains no caps on damages that can be awarded. It also leaves open the possibility of employer liability, not just HMO liability.

On the other hand, Coburn-Shadegg requires the exhaustion of all administrative remedies before litigation when relief is sought, but the right to seek court relief is too narrow, and suits are required to be brought in Federal courts, which are already overworked, and simply an inappropriate place for dumping this garden variety type of litigation.

I hope that tomorrow we send a strong message and pass an appropriate Patients' Bill of Rights, but work out these problems in conference, because once the House-Senate meets to bring back a bill to us, it needs to be right. We need to have the exhaustion of remedies. We also need to have the remedy.

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

Mr. Chairman, dead people really should not have to go to external review. Of course we exhaust all administrative remedies, unless there is bodily harm or death which occurs before you get to external review. If you do not do that, we encourage those people to drag it out forever until someone can die.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman from Ohio for yielding time to me.

Mr. Chairman, in 1994 the insured population was swelling while the cost of health care was rising higher and higher, even higher than the rate of inflation. We were paying more and getting less, but we backed off and walked away from health care reform because we were told there really was no health care crisis.

Yet, when we look at the picture now, things have only gotten worse. The Census Bureau tells us that the number of uninsured continues to rise. Health care costs are still escalating, and the Federal employees' health benefit premiums are going to 9 percent this year. The managed care organizations who were supposed to solve the problem of cost have not only failed to do so, but have added new problems of their own.

The system is still in need of major reform that would make health care universal and that would eliminate the inhumaneness of our current system, which leaves millions without coverage. But in the meantime, even our imperfect system has things that can be improved.

Managed care should not be allowed to run rampant over patients by denying emergency care arbitrarily, by interfering with doctors' professional clinical judgments, and by injuring patients who have no legal redress.

Only the Norwood-Dingell bill allows access to lifesaving clinical trials and prescription drugs outside the plan-defined formulary. Only the Norwood-Dingell bill has whistle-blower protections for doctors and nurses who advocate for patients. Only the Norwood-Dingell prohibits plans from giving financial rewards to health care professionals when they limit care. Only this bill will hold plans accountable through strong external review processes, backed by a nonwaivable right to sue in court, as people should have.

When we buy health coverage, what we really are purchasing is peace of mind and the security that we will be taken care of in the event that something unforeseen occurs. Without some way of holding plans accountable to what they have promised, we can never be certain that our care will not be denied. We have to support the Norwood-Dingell bill.

Mr. BURR of North Carolina. Mr. Chairman, it is my pleasure to yield 3 minutes to the gentleman from Arizona (Mr. KOLBE).

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

Mr. Chairman, I think the significance of today's debate cannot really be overestimated. This legislation and the many permutations that we are considering is going to affect the lives of 160 million working Americans, every small business owner, every self-employed person, every corporation in America. The decision that we make here today and tomorrow has the potential to fundamentally alter the

structure of the U.S. health care system, and with it, the quality and the quantity of health care that every American enjoys.

The task that we have before us today and tomorrow is to strike a balance between assuring access to health care and assuring accountability for those who provide it. We have to rise above the rhetoric, the heated rhetoric, which we are going to hear in these next 2 days and find the truth. If we do not and we respond with knee-jerk legislation, that in the end will only cause more harm than good to patients.

Let us be honest, there are no easy answers in this debate, but we can begin by acknowledging that under current laws, HMOs are not held truly accountable for their health care decisions. When the agent responsible for delivering health care services is the same agent that is responsible for controlling costs, then the quality of health care gets short-changed, and rationing of care results.

I have heard the cries of people in Arizona, and I have listened to the angry complaints of physicians who serve them. I have heard the horror stories I know many of my colleagues have about cancers that went untreated, physical deformities that went uncorrected, lifesaving therapies that were denied.

I believe HMOs should be held accountable for their decisions. But unfortunately, the suggested remedy in the underlying Norwood-Dingell bill establishing the unlimited right to sue an HMO I find equally troublesome. Already 44 million Americans have no health insurance, and that number is rising. Another significant number of Americans are underinsured. There can be no doubt that permitting unlimited liability will increase both the cost of health insurance and the number of uninsured.

How do I say this? How do I know that I can say this? In the first instance, simple economic logic tells us that insurers will pass the cost of increased risk of litigation along to someone else, and that someone in this case is going to be the consumer.

We have plenty of empirical evidence about the second concern, the loss of coverage for working people. I have in my office dozens of letters from companies in my area that say, in effect, any expansion of liability will force us to drop health insurance for our employees. The reason is straightforward. A company always seeks to reduce unknown and unquantifiable business risks. Norwood-Dingell is an open-ended liability, a brand new lottery for trial lawyers.

I am concerned that instead of 44 million uninsured Americans, we should all worry that in 4 or 5 years, with unlimited right to sue, the ranks of uninsured Americans will swell to 144 million people. That is what I mean by a knee-jerk response to a very ugly problem.

I urge my colleagues to reject the Norwood-Dingell bill and to support the Coburn-Shadegg bill.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, every day I hear from my constituents enrolled in HMOs who are crying out for help.

Most Americans want guaranteed access to emergency room care, and so do I. Most Americans want to be able to see doctors who are specialists, and so do I. Most Americans want the ability to choose their own doctors, and so do I. Most Americans want doctors, not accountants or bureaucrats, to make decisions about their medical health care. So do I. Most Americans want protection of the doctor-patient relationship. So do I. Most Americans want the ability to sue their HMOs if they are injured by deficient medical care, and so do I.

It is ludicrous that in New York City if you were injured in a taxicab, you can sue, but if you are injured or killed by deficient medical care, you would have no right to sue. That cannot continue to happen in the United States.

The Norwood-Dingell bipartisan bill is the only one which guarantees these consumer rights. It is the only one which will ensure that Americans will have quality health care. It is the only one that will ensure that Americans who understand the needs of health care get access to quality health care.

I commend the gentleman from Georgia (Mr. NORWOOD) for his courageous stand, and the gentleman from Michigan (Mr. DINGELL) as well. Americans will not be fooled. Americans want quality health care. So do I. Support Norwood-Dingell. It is the only bill that assures them that quality.

Mr. BURR of North Carolina. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to tell a quick story about a town in North Carolina in my district, a town with a high concentration of textile workers and companies, companies that are forced to compete on margin, struggling to find cost-effective health care for their employees.

They banded together and self-insured. They supplied a greater benefit package to their employees than they ever could have had they gone through an insurance company. Their creative, innovative approach to quality health care for their employees is in jeopardy with what we do here in the next 48 hours, because if we extend liability to those employers, they will no longer offer health care as a benefit.

For us to talk about the human face hopefully is not to show that face of the future uninsured because of our actions. I would encourage my colleagues to vote against the Norwood-Dingell bill and to support the Coburn-Shadegg bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. SHADEGG).

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

Mr. SHADEGG. Mr. Chairman, I rise in strong support of the Goss-Coburn-Shadegg-Greenwood alternative substitute, but I want to begin by talking about the Norwood-Dingell bill and about what it does.

I want to talk about the fact that it simply goes too far. When we look at the legislation, it makes liability too available and it turns the entire system over to the lawyers.

I want to focus in my remarks particularly on an issue that concerns the employers in my district. That is, can those employers be held liable when all they do is buy insurance for their employees. The reality is, the sad truth, is that my good friend, the gentleman from Georgia (Mr. NORWOOD) wrote language which he thought protected employers, but which does not do so. It says quite clearly that if an employer exercises discretionary authority, that employer may be sued.

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Discretionary authority is a very broad concept. Indeed, the decision not to do something can be construed as the exercise of discretionary authority. I want to contrast that with our efforts to protect employers. We said, no, we should not make employers liable. We ought to make health care plans liable.

So how can we do that? Because we want employers to pick a health care coverage plan. So we wrote that employers cannot be sued for picking a health care coverage plan. We want employers to participate on behalf of their employees. We want them to be able to advocate on behalf of their employees. That is the exercise of their discretion. We want to them to be able to make a decision not to advocate an employee in a particular case without being suable for just that decision.

Let us look at the language in our substitute. It does not say if one really exercises discretion as an employer one can be sued. It says that one may only be sued if one chooses as an employer to directly participate in the final decision to deny care to a specific participant on a claim for covered benefits.

We had written an airtight provision that says one cannot sue employers. We did it precisely because we want employers to pick a plan. We want them to offer health care coverage. We want them to get involved and advocate on behalf of their employees. All of those are the exercise of discretion.

Sadly, the Norwood-Dingell bill allows suits by anyone. One does not have to show actual harm or does not have to be sustained by a panel like ours does. One can sue at any time. There is no requirement that one goes through administrative remedies.

One can sue over everything. Ours is limited to just covered benefits. One can sue even when the plan does everything right, that is, the plan makes the right decision that is sustained on external appeal. One still can sue under

the Norwood-Dingell bill. Sadly, they put in place no limits.

I know that doctors across America do not like the fact that they can be sued; and in some States, there is no tort reform. We need tort reform. We do not need lawsuit lotteries against doctors, but we also do not need them against plans driving up costs and driving patients away from the system because they cannot get coverage.

Mr. NORWOOD. Mr. Chairman, it is my pleasure to yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

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

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman from Georgia for yielding me this time.

Mr. Chairman, judging by the amount of time and money that some Washington lobbyists are spending on character assassinations and other ridiculous paraphernalia that we have received in our office in an attempt to defeat the Norwood-Ganske-Dingell bill, I am more certain than ever of supporting this bill.

This bill deserves our bipartisan support. This bill is right on target. It puts patients first. That is what we are here for, for our constituents. I support the Norwood-Dingell-Ganske bill.

Mr. Chairman, judging by the amount of time and money some Washington lobbyists have spent in recent weeks on character assassinations and other ridiculous paraphernalia in an attempt to defeat this bill, I am more certain than ever that voting for this bill is the right thing to do.

The Norwood-Dingell-Ganske bill is the only legislation that puts patients—our constituents—first!

We've all heard that question posed, ''is there a doctor in the House?'' when someone is in dire need of expert medical care. One always hopes that someone with some sort of medical training is nearby to assist. Well, Mr. Chairman, we must pose that question here today: Is there a doctor in the House?

As my colleagues are already well aware, indeed there are physicians in our Congressional ranks—bona fide caregivers, medical experts, right here among us. Because we are in need—because the American public is in dire need of expert medical advice—we ought to listen to the professionals among us.

Why is it that ''the doctors in this House'' support legislation with stronger patient protections?

Because they have been on the front lines of this debate—they have been there to see the look in the eyes of a mother who discovers her health plan won't cover the next phase of her child's cancer therapy.

They've been there when an insurance company accountant dictates to them what medical options are available and what essential information cannot be disclosed to their patients.

Mr. Chairman, patients, men, women, and children and their families rely on doctors in life and death situations, a heavy responsibility. But that resonsiblity is even greater under our current managed care system as insurance companies burden doctors with making medical decisions that too often coincide with the company's business decisions.

Mr. Chairman, our nation's doctors went to medical school because they were passionate about helping people. They could have gone to business school if they were interested in helping companies make a profit.

And Mr. Chairman, Americans want to be assured that when they step into their doctor's office, they will be seen by a doctor, not an accountant!

Realizing that managed care is here to stay, and that health maintenance organizations will always be in the business of making a profit as much as they are in the business of keeping patients healthy, we must not miss the opportunity to strengthen the system and make it more accountable. We must bring balance to the system—balance that ensues doctors are free to provide compassionate care to their patients, balance that ensures doctors are free to provide compassionate care to their patients, balance that ensures providers are protected, too, yet held acountable when a decision ultimately proves wrong, and balance that, most importantly, assures patients that they are the number one priority for their health care provides.

We can do that by passing H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act of 1999 of which I am a proud co-sponsor. The Bipartisan Consensus bill provides important choices for everyone—the most important being the passage of a law that provides for the best health care possible in the next century.

The Bipartisan Consensus bill provides access, accountability and strong patient protections. It also: gives patients the ability to appeal a decision by their health plan; won't allow health plans to prevent doctors from informing their patients of all treatment options; gives female patients direct access to OB/GYN care and services, and children direct access to pediatricians; provides all patients with access to emergency services; and ensures that medical decision makers would be held responsible if someone suffers injury or dies as a direct result of that decision.

With just these few simple provisions, this legislation would eliminate some of the most egregious and unfair abuses by some health insurers.

Mr. Chairman, in the year or so since our last attempt to reform managed care, nothing has improved. In fact it has only gotten worse as we learned earlier this week of reports that said another one million people have joined the ranks of America's uninsured. This is a startling revelation considering our robust economy.

If this bill is defeated, another year will go by, maybe more time, and we will start the 21st century having missed an opportunity to provide Americans with the right to control their own health care. Indeed, we are afforded a rare opportunity here to prove to an already cynical American public that when the United States Congress debates the bottom line in managed care reform, we refer to protecting people, not profits.

Mr. Chairman, in closing, I remind some of my colleagues that no one political party owns this issue. All of us have heard from our constituents who tell us about their unhappy experiences with their health plans. I think it is the desire of every member to make health maintenance organizations more accountable—no one is interested in promoting more litigation; we simply support basic protections for all Americans.

As the greatest nation in the world counts down the days until the start of a new—millennium—there is no better way to prepare for a strong, healthy America than by putting people in control of their health care. Let's pass the Bipartisan Consensus bill (H.R. 2723), and let's return medical decisions to doctors and their patients.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Ohio for yielding me this time.

Mr. Chairman, I rise in strong support of the Norwood-Dingell-Ganske bill and in opposition to the other substitutes. I believe it is important to point out the strengths that the real Patients' Bill of Rights, the Norwood-Dingell-Ganske bill, has. There are two of them.

The first is that the key aspect of liability is not simply the claims on which people can prevail in court and make their specific case winnable. It is the behavioral change that liability will introduce throughout the managed care system. It is a decision that will be made with people understanding that there are real consequences.

The key to the Norwood-Dingell bill is not the suits that will be brought. It is the suits that will not be brought because the right decisions will be made in the first place.

The second advantage of this bill is its medical necessity standard. It is very important for us to lay out very clearly, as the Norwood-Dingell bill does, that disputes will be resolved under an objective standard of medical necessity defined by the best practices of those who practice in a given medical field, not by the arbitrary economic discretion of the insurance carrier.

For reasons of medical necessity and the benefits of liability on corporate behavior, it is important that we reject the other substitutes and strongly support the Norwood-Dingell-Ganske bill.

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

Mr. Chairman, however one views this debate, it is exciting. Think about where we have come in 5 years. I mean, here we are, all members of the Committee on Commerce. All of us know each other well. We are generally good friends. The gentleman from Oklahoma (Mr. COBURN) and I do not disagree on probably three things on this Earth.

We are actually sitting here all talking about the same thing. We are talking about a managed care system, Mr. Chairman, that has gone awry, where it allows people to practice medicine who simply are not licensed to do so. Even if they are licensed to do so, usually it is a dermatologist telling a cardiologist how to treat their patient; and they are 2,000 miles away, looking at a computer screen. They have never touched that patient. They have never listened to their heart. They have never listened to their lungs. They are 2,000 miles away, and they say, Doctor, you cannot possibly be right. I know better. I have got a protocol in front of me. That is what we have allowed to happen in this country.

Now, have some people been killed? You bet. Why do my colleagues think the insurance industry said to Congress in 1974, give us the system. We will manage the costs. We will make it cost cheaper. By the way, we are going to have to deny some benefits to do that. We are going to kill a few people. For God's sakes, give us immunity, too. And we did. They are the only industry in America where we say they are absolutely protected from being responsible for their actions.

We do not believe that. We tell everybody they need to be responsible for their actions, do we not? We tell welfare mothers. We tell deadbeat dads. We tell teachers. We tell everybody. One has to be responsible for oneself. When one harms somebody, one has got to step up to the plate.

Do I want anybody sued? No. I am not interested in lawsuits, and I never have been. But the people who are practicing medicine without a license are being paid to do so. They are incentivized to do so. They lose their job if they do not do it.

Do I want a hammer over their head? Yes. Do I want that insurance clerk to think twice when he says to that mother, I know the pediatrician thinks your child needs to be hospitalized, but I know better. I have got it on my computer right here. I want that clerk to think twice about it.

If that clerk makes a decision that denies a benefit that is in a plan and causes death or injury, then, by golly, maybe we should go to court on that. We ought to go to State court. I strongly believe that now.

A lot of us do not disagree on a lot of this. We do disagree a little bit on the liability. I want to just tell my colleagues that, in our bill, employers who do not make medical decisions cannot be held liable on H.R. 2723. It states that a cause of action may only be filed against an employer when the employer exercises discretionary authority to make a decision on a claim for benefits covered under the plan and the exercise of such authority results in injury or death.

What that means is that the employer has the ability to make some decisions. If one of those decisions it makes is a medical decision, if it absolutely denies one of the patients a benefit that is in their plan, and they die from it, yes, we are saying the employer needs to be responsible for that and needs to be called up.

The only system of justice we have in this country, where does one right a wrong if one does not do it in a courtroom anymore? We are not going back to the O.K. Corral. We are not going back to six guns to solve our problems.

We have only one system of justice; and to say to an entire industry in this country, no, they never have to be held accountable for the decisions that they make, even though the Congress of the United States told them they could do all of this, discretionary authority does not include an employer's decision to include or exclude from the plan any specific benefit. What that says, they can have anything in it that they want to.

Now, we agree on a lot of things, but the one thing that is a must, my colleagues must vote for the bipartisan bill if they want to protect patients because that is how we get to a law.

Mr. BURR of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. COBURN), still a practicing doctor.

Mr. COBURN. Mr. Chairman, I love the gentleman from Georgia (Mr. NORWOOD). What he just expressed to my colleagues in his heart is right. The conclusion he has drawn on how we accomplish what he wants to accomplish is dead wrong.

Let us just use their definition of protecting employers. I happen to have a son-in-law that is a lawyer. He likes their bill because he knows he is going to make a lot of money off of it, because the very subtleties of going to State court to solve the problem that the gentleman from Georgia (Mr. NORWOOD) so eloquently just described, which we all want to solve, we all want to solve that, says that that lawyer is going to file a suit against that company, not because he thinks he can and not because he thinks he will win, because that is the person with the deep pockets. Then he is going to work hard, and then he is going to extort, and he is going to say I am going to settle.

They do not care about the patients most of the time. What they care about are their pocketbooks. The reason we are in this shape is too many doctors in this country care about their pocketbook more than doctors in the first place, or we would never have had HMOs, or we would never have had the abuses of HMOs.

So if my colleagues really care about patients, and if they really want a solution that will meet the needs of those patients and not the needs of the trial bar, then we have to back up. We have gone too far. We have created a system that is going to result in the extortion of dollars from every employer in this country.

Mark my words, those guys are smart. They are going to find every crack every time. They are going to claim it under doing something good. But the motive is not going to be pure; the motive is going to be money. Just like the motive today with too many HMOs is money. It is not about patients to either side, but it should be about patients to this body.

The only way we have to fix it is with a middle ground that protects the very supplier of that care in the first place, does not undermine it, does not cut it. If they truly make a medical decision under the Coburn-Shadegg bill, they are held liable. They cannot be penetrated unless they are not. So let us hold them accountable. Let us do it in a way.

Let us get a good bill to the Senate. Let us get a good a bill that the President is going to sign. Let us fix the problem. Let us reverse the cynicism of this body. Let us talk about patients and not politics.

The CHAIRMAN. All time has expired for the Committee on Commerce.

Under the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

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

Mr. Chairman, over the last several years, the Committee on Education and the Workforce has tackled the issue that should be number one when we talk about health care problems in this country, because the number one issue that needs to be fixed before anything else is the fact that we have 44 million uninsured people in this country, most of which work or have someone in the family that works.

That is very, very expensive to health care because, of course, the cost shifting that takes place is dramatic. Someone has to pay for the bills for the uninsured.

So today we have an opportunity to make a real difference in the lives of many Americans. As I said to the committee over and over again, there is a very fine line. Our job is to make sure the 44 million get insured and at the same time make sure that the 125 million do not get uninsured that are already insured.

We can thoughtfully provide real patient protections, including a binding external review by independent medical experts, that will ensure that Americans who currently have health care coverage get the care they are entitled to when they need it.

Unfortunately, we also have an opportunity to do great damage to a very successful system of employer-sponsored health care coverage and add to the ranks of the 44 million Americans who are presently uninsured. I would hope that we would make the wise choice.

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One of the great casualties of this debate has been the reputation of one of

the most successful Federal laws ever enacted: The Employee Retirement Income Security Act, better known as ERISA. Enacted in 1974, ERISA has provided the foundation for employers to voluntarily offer health care insurance to their employees. It has given employers who operate in multiple States the ability to provide uniform benefits and administration to their health plans. This has resulted in more than 125 million Americans having coverage through their employers.

In 1998, more than 2 billion claims were filed under employer-sponsored health plans. The overwhelming majority of these claims were approved and participants and providers were reimbursed in a timely fashion. Because some small percentage of these claims are disputed or denied, some Members of this body believe that litigation and trial lawyers are the best way to bring about accountability.

But what if we could guarantee that any benefit disputes could be resolved by an independent panel of medical experts in a time frame that takes into account a patient's condition, and then, if warranted, provides care immediately, not a courtroom, which finally makes a decision after they have died. What need would anyone have for courts and lawyers? The answer is none. And that, frankly, is what so upsets supporters of H.R. 2723. They put their entire faith in the hands of lawyers and courts that are blind to a process that would ensure proper medical care without the need of litigation.

The various bills that we consider today, all of them, and tomorrow, have all of the patient protections that are needed. All of us have the right for women to have direct access to OB–GYNs; the right for parents to designate a pediatrician as a primary care physician for their children; the right for unrestricted communication between a doctor and a patient. They all have these. The right to seek care if a person reasonably believes they are in an emergency situation; the requirement for greater disclosure of information from health plans and that the information be communicated in easy-to-understand language. They all have continuity of care for pregnant mothers, those awaiting surgery, and the terminally ill. And they all have access to specialists and the right to go to doctors outside a closed network.

What has become the focal point of the debate is whether we provide a system that guarantees quality medical care or begins a new era of expensive, lengthy, and self-defeating litigation. The Dingell-Norwood bill, I believe, would quickly take us to a medical decision by court order. It would result in a significant increase in health care costs, and will, make no mistake about it, result in many more Americans joining their 44 million fellow Americans in the ranks of the uninsured. It is bad medicine and bad policy. All Members should think long and hard before they entrust the future of medical care to lawyers and courtrooms. Get them into hospital rooms when needed, not courtrooms.

I urge all Members to oppose expanded liability and support an approach that provides people with the care they need when they need it: binding external review of any disputed health care claim. A bill almost like that passed last year out of committee and on the floor of the House.

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

Mr. CLAY. Mr. Chairman, I yield myself 2 minutes.

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

Mr. CLAY. Mr. Chairman, during the past few years, health care consumers have expressed increasing concern about the manner in which managed care plans are operating. Patients are being denied emergency care. Patients are being denied access to specialists. Patients are being denied needed drugs, and patients are being denied the ability to hold plans accountable for these coverage denials. Clearly, Mr. Chairman, this situation is intolerable, and the enactment of Federal legislation is needed to remedy it.

Though several comprehensive managed plan reform bills have been introduced during this session of Congress, I first decided to cosponsor H.R. 358, the patients' bill of rights introduced by the gentleman from Michigan (Mr. DINGELL), because it would best deliver the comprehensive and enforceable patient protections that health care consumers demand.

In addition to the patients' bill of rights, I also decided to support the compromise now before us, introduced by the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL). This bill retains all of the essential protections found in the patients' bill of rights. Among them are access to enforcement in State courts if an individual is injured by their health plan's actions and a fair and responsive grievance and appeals process.

Despite the initial attempts by the Republican leadership in both bodies to block consideration of the patients' bill of rights, those interested in real health care reform continued to fight for its consideration. Now, with H.R. 2723, we have a reasonable compromise that can become law. I urge a ''yes'' vote on H.R. 2723 and ''no'' votes on all three substitutes.

I would like to take this opportunity to briefly discuss the bogeyman known as ERISA. I have been on the primary committee of ERISA jurisdiction, which is now known as Education and the Workforce, for over 30 years and I have watched how this statute has been repeatedly misconstrued by the courts and employers.

First and foremost, ERISA, the Employee Retirement Income Security Act, was enacted in 1974 to protect the pension and other employee benefits promised to workers and their families. Plain and simple, ERISA was intended to protect workers, not be used against them.

ERISA was primarily directed at pension plans. It contains extensive standards that employers must comply with in order to ensure that workers receive promised benefits. With respect to health benefits, ERISA contained few standards. That was because Congress was already debating health care reform in 1974, and Congress expected to shortly enact national health care legislation. Unfortunately, that legislation never came to be.

ERISA contains two key provisions that have repeatedly been misinterpreted by the courts and used to undermine the employee benefit protections of ERISA. First, although ERISA permits individuals to sue for violations of the law, ERISA only permitted individuals to seek ''appropriate equitable relief.'' The reason for this was that pension law derives from trust law and under trust law equitable relief includes money damages. Unfortunately, the initial courts that interpreted ERISA did not consider ERISA's underlying trust law basis.

Second, ERISA preemption. ERISA did intend to preempt states from directly enacting laws that regulate benefit plans. But, ERISA specifically included a provision that permitted state laws that regulate insurance. Historically, health benefits have been provided through insurance companies and the states have always been the primary regulators of insurance. Unfortunately, here too, the courts misinterpreted ERISA and encroached upon traditional state authority. ERISA always intended for states to continue to be able to regulate the activities of insurance companies, which includes managed care companies.

Mr. Chairman, let's make ERISA what it was intended to be—a law to protect the pension and employee benefit rights of workers and their families.

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

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. BOEHNER), a gentleman who truly cares about those who are uninsured and truly cares about those who need quick medical attention.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me this time; and I would like to follow up on his earlier remarks.

In America today, about 125 million lives are insured through employer-based plans. Earlier today, we passed an access bill that would give Americans more choice, give them an above-the-line tax deduction for health care that I think will empower them to have better choices in the system we have today and begin the process of developing a more competitive private market.

But the fact is today employers do, in fact, provide most of the health insurance that we have out there. I have letters in my office, one from Mike Toohey, a former staffer here in the Congress who now works for Ashland Oil, who wrote to me, and I will quote, ''Because I have leukemia, I am not insurable except through my corporate health care plan.'' Mike went on to say, ''My company's health care plan saved my life and paid for those costs.''

Employer-based health care is what made it possible for James Barton, a retired employee from Tulsa, Oklahoma, to get quality care for his wife after she had a stroke in 1998. He wrote and said, and I will quote, ''During the past year, my company's health plan has been a godsend,'' Mr. Barton wrote recently. ''We could not have gotten by without it.''

Employer-based health care is what made it possible for Simon Scott, a patient from Columbus, Ohio, to afford the expensive treatment he needed when he was gripped by cancer. He wrote, ''These choices were critical to me and allowed me to afford the medical care that I needed. Please oppose any legislation that will cause my costs and those of my company to rise at alarming rates, resulting in less coverage and less ability of my company to provide the quality care that I need.''

That is really what this debate is all about, Mr. Chairman. We have the underlying bill here, the Dingell-Norwood bill, and while the sponsors of the bill are dear friends of mine, and I would never question their judgment nor what their motives are because they believe strongly in the bill that they have before us, it is just that I and many Members believe it goes way, way too far.

Employer-provided health care in America today is a voluntary program, started back in the 1950s, then codified in the ERISA act that the gentleman from Pennsylvania (Mr. GOODLING) talked about earlier, that has allowed this program to grow successfully. But it is a voluntary program. If we put too much weight, if we put too much regulation, and, most importantly, if we put too much liability, we will drive employers away from offering this coverage to their employees. And when we look at the Dingell-Norwood bill, it does put the Federal Government more in charge of our health care by empowering the Secretary of Labor and the Department of Health and Human Services to look at health plans to make sure that they have network advocacy and all other types of Federal mandates.

Most importantly, and I think where we will see this debate go over the next day and a half or so, is in the area of lawsuits. Because under the Dingell-Norwood bill not only are health insurers and health care providers liable for insurance, but, in my view, employers are also subject to lawsuits. I do not believe we can sue our way to better health care in America today.

The sponsors will say they have shielded employers from any liability, and I will say that they have made an attempt to do that. But the fact of the matter is that under ERISA, employers have to provide discretion. And if they provide discretion under the Dingell-Norwood bill, they are now subject to liability.

I think there is another way, a better way to provide the care that Americans want, when they want it; and that is through a binding external appeals process that has severe penalties to make sure that employers and health care plans provide the care that the outside reviewers have determined that the patient ought to get. This independent review, this third-party review, has real binding teeth in it. It allows a reviewer to look at the care that is out there and available and would allow them to determine, within the contract, what appropriate care was right for that patient.

If the patient won the fight, they get the care. They do not have to wait around for a courtroom or wait around for a judge or a lawyer to get there. They get the care. And if the health plan or the employer drags their feet, it is a $1,000 a day penalty on that health plan or employer, with no cap. And if they willfully deny that coverage after it has been granted by an external reviewer, it is $5,000 a day, no cap. And while they are waiting, if they are dragging their feet, that individual has a certificate from an external reviewer that they can take and get their care at any medical facility they want to go to.

I think this is a much better way to provide the care that patients want without going to court. Let us do the right thing, the responsible thing and, at the same time, not undermine the employer-provided health care that millions and millions of Americans appreciate today.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Chairman, the managed care insurance industry has used the threat of lawsuits as a red herring in this debate. The insurance industry has chosen to use the oldest trick in the book to oppose the Norwood-Dingell bill, that is to say the problem is the lawyers. After all, no one likes lawyers, until they need one.

The insurance industry knows that the law in Texas, that the Norwood-Dingell bill is modeled after, has not resulted in litigation. In fact, I was a part of helping that legislation become law in Texas when it was first introduced in 1995. Since its enactment in 1997, we have had only five lawsuits filed.

In our Nation, there are two solemn principles guaranteed every person, rich or poor, wealthy or powerful, and even to the weak, and that is equal justice under the law and due process of law. Access to the courts ensures that every citizen, every business, every organization is accountable for their negligent actions. Only one group in our system of law is immune from litigation, and that is foreign diplomats. The insurance industry in this debate tonight wants to add one other group. That is the insurance companies themselves want to be immune from liability.

Now, no one wants to go to court, and the Norwood-Dingell bill has embraced a full internal and external review process to avoid having to go to court. But in the last analysis, the protections the American people deserve under our constitution is the right to have access to the courts.

The Congressional Budget Office estimated the cost of legal accountability would be 12 cents per month per patient. And the CBO says that half of that cost would be because the insurance companies would implement review standards to be sure that no patient is denied quality care. Sounds like a pretty good investment to me.

Every individual, every business understands that they are accountable for their negligent acts in our society; that they can land in court. Managed care insurance companies should be accountable too.

Support the Norwood-Dingell bill. It has worked in Texas, and it will work for all Americans.

Mr. CLAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. VISCLOSKY).

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

Mr. VISCLOSKY. Mr. Chairman, I rise in support of the Norwood-Dingell bipartisan consensus bill.

Ann is a 60-year-old diabetic from Lake Station, IN who had always taken care of her condition. She refused to drink or smoke, and carefully monitored her insulin and sugar levels. However, the disease continued to progress and her doctor scheduled regular kidney tests to make sure that her kidney function did not deteriorate to emergency levels. Then Ann switched to a Health Maintenance Organization (HMO), lured by promises of lower costs and prescription coverage. Her first primary care doctor continued the same regimen, keeping a close eye on her kidneys and monitoring her heart function and sugar levels as well. This doctor was dropped from the HMO. The new doctors she was allowed to see did not think regular testing was necessary. In fact, when Ann came down with an infected foot, a common symptom in diabetics whose condition is worsening, the approved doctors she visited were unmoved. Finally, a member of Ann's family realized she was in potential danger and took her to the emergency room. There she was found to be in congestive heart failure. She was also anemic and her kidney function had dropped to a dangerous level. The painful process of kidney dialysis became necessary. Several days later, Ann received a call from her HMO. Although her daughter had taken her to an approved hospital, neither the emergency room physician nor the two specialists she saw were on the approved list. Ann was forced to pay out of pocket for this emergency care.

Sadly, Ann's case is not unique. Certainly, many HMOs provide excellent medical care at a reasonable cost. However, there are far too many which routinely abuse their members, refuse to pay for necessary treatments, and, in many cases, prevent doctors from conducting treatments that they consider too costly.

Ann's story and others' from Northwest Indiana demonstrate just how desperately we need to reform the managed care industry. I

believe doctors and patients should make decisions about health care, not insurance company bureaucrats. That is why I support the Norwood-Dingell Bipartisan Consensus Bill.

Certainly not all HMOs abuse their patients, but there are far too many horror stories from real patients to think all HMOs act in a responsible and reasonable manner. The Norwood-Dingell bill will set a standard in which emergency room coverage is guaranteed as long as the prudent layperson considers the situation an emergency. Along with guaranteed emergency room care the Norwood-Dingell bill outlines common sense patient protections that provide access to specialty care, continuity of care, opportunities for patient grievances and appeals, and accountability for decisions made by HMOs regarding patient care.

This bill has the support of approximately 300 organizations, including the American Medical Association and the American Public Health Association. I am glad to see that the leadership of the House has finally addressed this important issue. I have been fighting to see that real HMO reforms be addressed in the House for the past three years. I am glad to see that we finally will be allowed a straight up or down vote on real HMO reform.

□ 1900

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. BALLENGER), a member of the subcommittee.

Mr. BALLENGER. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me the time.

Mr. Chairman, let me talk a minute about the 125 million people who could lose their insurance. H.R. 2723, or Norwood-Dingell contains language that would expose employers to lawsuits for voluntarily providing health care benefits to their employees and thus jeopardize the employer-based health care system.

The bill opens the flood gates for trial lawyers. It mandates greater cost and liability to employers of all sizes. Yet, defenders of this bill believe that employers would be shielded from liability unless they used discretionary authority on a benefit decision.

However, what is discretionary authority? In reality, nearly any health care decision made by employers entails the use of discretionary authority. This open-ended term leaves trial lawyers drooling over the possibility of litigation and employers considering whether to pull the plug on the health care benefits. Trial lawyers will continually test the term ''discretionary authority'' in the courts, which will cost employers millions in the realm of attorneys and defense.

An ad in today's Washington Post put it best. ''The patients' bill of rights is actually the lawyers' right to bill.'' When faced with the specter of liability and the ambiguous term ''discretionary authority,'' employers will opt to stop voluntarily offering health care and give employees the monetary equivalent. In a recent poll, 57 percent of small businesses said they would drop health care if faced with increased liability and cost.

We do not need more litigation spurred on by greedy trial lawyers. We need health care reform that supports both patients and the employers who voluntarily provide these important benefits. The solution is not liability but accountability, and the Boehner substitute does just that. This substitute strengthens the internal and external review process and holds health care plans liable for up to $5,000 a day if the plan refuses to adhere to the decision of the review process.

H.R. 2723 would jeopardize employer-based health care plans for over 120 million Americans. Support the Boehner substitute and let small businesses and employers continue to provide health care for the American workforce.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I support Dingell-Norwood-Ganske because I believe the people have a right to decent health care in the United States of America. This is a life-and-death matter that transcends the narrow needs of insurance companies.

Do my colleagues know that the total cash compensation received by the CEOs of just the largest three HMO companies totaled $33.3 million. The insurance companies have enslaved our health system. They hold patients and doctors captive. They operate a modern-day plantation where servitude to their profit is their only objective.

The old spiritual says, ''Let my people go. Go tell it on the mountain.'' Well, we are here on Capitol Hill, and it is time to send a message to the insurance companies: let my people go. My people are being denied decent health care because of the insurance companies' profit motives. My people are being denied the doctor of their choice because of the insurance companies' profit motives. Let my people go.

My people are being charged confiscatory prices for prescription drugs. Let my people go. My people are being told they should not even have legal help in dealing with these same insurance companies because the insurance companies' profit motive is there.

The insurance companies may rule health care like modern-day pharoahs, but soon they will have to meet the awesome wrath of the American people. If we are worthy of the promise of government of the people, by the people, and for the people, we will free our people from the rule of the insurance companies, we will lead them out of this valley of tears to better health care, we will let them live longer, better healthier lives, let their children grow up healthy.

We have a chance to write a new chapter in this country's history where government of the people means better health care. Pass Dingell-Norwood-Ganske.

Mr. GOODLING. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Mr. Chairman, I think the point here is that if we allow open-ended litigation in health plans what will happen is employers will let their people go, employers will let their people go without insurance because they will no longer be able to afford it.

The idea here is to keep the costs down by keeping the litigation down.

Mr. GOODLING. Mr. Chairman, he is not a Moses so I don't know whether he will let his people go, but I yield 3 minutes to the gentleman from South Carolina (Mr. GRAHAM), a very important member of our committee.

Mr. GRAHAM. Mr. Chairman, no, I am certainly by no means Moses. Do my colleagues know what I was before I was in Congress? I was a trial lawyer. I was glad to do what I did for a living. Because when somebody came into my office, I tried to help them where I could, and I would always be honest: you do not have a case. I am sorry. It would be a waste of your money and my time.

But every now and then people would come in like the folks that the gentleman from Iowa (Mr. GANSKE) have displayed on the floor tonight. And if my colleagues think suing a hospital or a doctor is easy, they have never done it. They have got to find an expert that will be willing to say the standard of care was not adhered to. And most people that come into the office do not have enough money to pay the bill, so we have got to go into our own account and advance costs.

The most dramatic form of litigation I have ever been involved in is suing health care professionals because most people in the community want to support their doctors and to give them the best benefit of a doubt, as they should. It is traumatic; it is emotional for the doctor and their family. And it is traumatic for the patient; and it is very, very expensive. But it needs to occur in situations where people are wrongfully treated.

We need to have liability over HMOs' heads. When they make a decision for the plan participant, they need to understand that if they nickel-and-dime folks and they do not treat them fairly, they could wind up in a courtroom.

But having made my living in courtrooms, let me tell my colleagues, we could do better than all the options that we have heard about tonight. To say that legal liability does not affect insurance and the ability to have health care is wrong. Legal liability is something employers look at very hard.

I believe, when it is all said and done, that there are no guys with white hats and black hats in this debate. I support Norwood-Ganske-Dingell, and I will vote for it no matter what happens because I believe the Senate Republican bill does not get us where we need to go as a country.

I am going to ask my colleagues to listen to one thing at the end of this debate. I am not a doctor, and I am not

going to practice medicine because it is not what I know how to do. But I am a lawyer. I can tell my colleagues this: we can create a fair day in court for people in this country, but we have got to look long and hard at how we do it. Because one day, if we do not watch it, we are going to drive people out of the health care business.

If we allow State court lawsuits for companies that do business in more than one State, I believe we will have a legal conversation that goes like this: the corporate lawyer is going to tell the company, You are subject to 50 different legal theories of liability. There are 50 different rules out there. And you are going to have to think long and hard if you want to stay in this business.

To give this back to the State where there is no uniformity is going to drive up cost, and it is going to be very complicated to administer. What I suggest is let us keep the Federal court system as it is but allow full range of lawsuits. If they have a bodily injury, sue for the complete recovery of their damages, but let us make it uniform so people do not lose their health care and have some damage limitations.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I appreciate the comments of my colleague from South Carolina (Mr. GRAHAM).

Mr. Chairman, I am a doctor and not a lawyer. So what did I do? When we were looking at drafting this law to help protect employers, we put in a provision that said, unless the employer makes a discretionary decision, they are not liable.

Most employers, most small business people, most doctors, what do they do? They hire an HMO or they hire a health plan, and they do not get involved in the administration of the plan; and so, under our bill, they are not liable.

And so, do my colleagues know what? Since I am not a lawyer, we asked some experts to make sure that our language truly did protect the employers. We asked the senior attorneys at the Employee Benefits Department and Health Law Department at the law firm of Gardner Carton and Douglas to look at our language, does it really protect employers. And guess what they said. They said that it protects employers if they are not involved in that decision-making.

That is what they said in their legal brief on this. They said the provisions in the Norwood-Dingell bill, section 302(a) that protect plan sponsors would be interpreted under the Supreme Court's well-established ''plain meaning'' analysis. Such an analysis supports the Norwood-Dingell bill that the clear intention to continue to preempt any State law liability suits against employers that do not involve an exercise of discretion by them in making a benefit claim decision resulting in injury or death. Other types of discretionary plan sponsor action would not be affected and would not be subject to State law liability claims.

Interpretations of the Norwood-Dingell bill which characterize it as a broad employer liability provision require one to ignore critical elements of section 302(a) which means under the ''plain meaning'' analysis of the Norwood-Dingell bill that employers will not be liable when the HMO that they contract with makes the decision.

That is the lawyers' opinion.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Chairman, I thank my colleague for yielding me the time.

Mr. Chairman, every so often this body gets an opportunity to decide on an issue that has direct impact on the lives the people we represent. Today is one of those days.

At long last, we have an opportunity, through passage of the bipartisan managed care improvement act, to balance the scales of health care delivery in favor of our constituents. And it is long overdue.

The opponents of justice for health care consumers say that we should not pass the Norwood-Dingell-Ganske bill because it would drive up the cost of health care. But they are not telling the American people the truth. The premiums are going up now, but they have not risen disproportionately in the States that have enacted HMO reform.

The American people understand that we cannot put a price on the right to get justice when an HMO refuses to pay for care that was ordered reasonable by a doctor and the patient suffers harm or dies.

My colleagues, the American people are a lot smarter than the HMO industry; and our colleagues who are against this bill give them credit. They can tell whether a particular piece of legislation is good and whether it is not.

How many good doctors have been fired by HMOs just because they continue to deliver a high standard of health care? Norwood-Dingell-Ganske is the only bill that would change that.

Among the other things in H.R. 2723 that the American people support is the fact that it will ensure that people have direct access to OB-GYN services from the health care professional of their choice. Under the Norwood-Dingell bill, if someone has a chest pain, they can go to an emergency room and be seen immediately; if they have a heart attack, they can be treated and stabilized and not have to be transported for emergency care.

My colleagues, a number of States and the courts have already begun to do away with the exemption from being held accountable that HMOs currently enjoy.

Should not all Americans, not just the ones in California, Georgia, Texas, and now Illinois also enjoy this right?

We are having an opportunity to do right by the American people today. Let us not squander that opportunity. Let us pass a right kind of managed care reform, the only bill that does what the American people have asked us to do. Vote yes on Dingell-Norwood-Ganske and no on all the other substitutes.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

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

Mr. MENENDEZ. Mr. Chairman, I rise in support of the Dingell-Norwood bill because it is the only bipartisan bill that addresses the needs and concerns of some families in my district who need a level playing field in dealing with their managed care plans.

I am hopeful, however, we will have the opportunity to provide the funding offsets we were denied on the floor today. This issue is simply too important to families like the one in my district in which a child was denied post-operative care by their managed care plan and, as a result, suffered severe life-long health complications.

It is these families for whom we should level the playing field. And the Republican leadership should be having breakfast with them, not the fat-cat insurance companies who want to kill the Patients' Bill of Rights.

□ 1915

We can ensure that doctors, not insurance bureaucrats, make medical decisions in the best interests of the patient not the health plan.

This is not about lawyers. It is about empowering patients by giving them the right to hold their plans accountable when they are denied care.

The Dingell-Norwood bill levels the playing field, empowers patients and, as a result, ensures access to quality health care for all Americans.

Mr. GOODLING. Mr. Chairman, in passing I might mention that I think that law firm referenced might represent the AMA. I think I heard that somewhere.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, good HMOs manage care. Bad HMOs manage costs. Good managed care has physicians making those decisions not bean counters. Bad managed care has bureaucratic bean counters making health care decisions to cut costs, and that is the problem we should have fixed first.

The good guys and gals who are out of this debate are our employers. Where are they in this proposal? Were they at the table? No. The manufacturers, the contractors, the restaurateurs, the retailers, NFIB, the Chamber, people who make this country work, employers who pay the bill.

I also find it is interesting, are Medicare recipients covered by this? No. Medicaid? No. Veterans? No. Federal employees? No. We pay for their health

care and are responsible. They are not covered.

We are building a Federal bureaucracy like HCFA for our employers to deal with, the good guys. Our employers are frightened by this proposal, and they should be. They were left out in the cold. They were not adequately protected. This proposal takes a meat axe to an issue that a sharp surgical knife could have fixed. We should have made sure managed care used physicians to manage care, not accountants and bureaucrats to manage costs.

Our employers who pay the bill should have had their concerns resolved. That did not happen. The Dingell-Norwood bill will increase the number of uninsured, and what recourse do those who have no insurance have? Nothing is given to them.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, I am sure tired of hearing the other side say that it is lawyers who are causing this dilemma. There is a doctor seated in here this evening who had to sue to be able to practice medicine in California. And he sued and he won. His name is Dr. Thomas Self. There are a ton of people who keep saying the lawyers are keeping the patients out of the hospital and keeping the doctors out of the hospital. Well, we want to be able to get in doctors' offices and hospitals, but it seems the only way we can do that is to sue them because the HMOs will not let us in the hospital.

Now, my friends, the Selfs, and my friend Miles Zaremski, my law school buddy, submitted an open letter to Congress and I would like to include that in the RECORD.

AN ''OPEN LETTER'' TO THE HONORABLE MEMBERS OF THE UNITED STATES HOUSE OF REPRESENTATIVES REGARDING MANAGED CARE LEGISLATION

(By: Thomas W. Self, MD, FAAP, Linda P. Self, RN, BSN, Miles J. Zaremski, JD, FCLM)

SEPTEMBER 29, 1999.

DEAR HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES: We hope that our remarks that follow will be able to be part of the floor debate that will occur on managed care legislation, scheduled for early next month. While we have endeavored to communicate with several of you, either by letter, phone or by in-person conferences with you or your staffs, we feel our individual, yet collective, wisdom on the underpinnings of this legislation before you is critical and important. Two of us have a unique experience not shared by other health care providers in our country. The other has considerable expertise based on experience and writings on managed care liability, what our courts have done with ERISA preemption, and what is likely to be done in the future by our judicial system. Two final introductory remarks. First, there is so much that needs to be said that brevity in our remarks could not be achieved. Second, while this letter comes from the three of us, we refer to each of us in the third person.

THOMAS W. SELF, MD,
FAAP,
LINDA P. SELF, RN, BSN,
MILES J. ZAREMSKI, JD,
FCLM.

Our plea comes not as Democrats, Republicans or members of other political parties. Our plea comes to you as a physician, nurse and lawyer, representatives of those at the crossroads of medicine, health care and law. Our plea comes to you also as people who are deeply and passionately concerned about the quality and delivery of health care for America's patients, all patients, and the legal and legislative efforts to do the right thing—insure fairness and accountability for patients and by those delivering health care.

To quote a famous line from a motion picture of some years back, the battle cry of patients is, ''We are mad as hell and we are not going to take it anymore!'' Patients and providers alike should not be subject to the grave inequities foisted upon them by what managed care has done to the delivery of health care. Linda and Tom Self are fitting and, perhaps, unfortunately, unique examples of what has to occur before managed care moguls will listen.

As a San Diego doctor trained at Yale and UCLA, who ran afoul of managed care and who was actually fired for spending ''too much time'' with his patients, Dr. Self is unique among health care providers in that he fought back against the medical group that fired him and won a three year ''battle'' that culminated in a three month jury trial. His victory is the first of its kind in the nation, and was profiled by ABC's ''20/20'', on August 6, 1999.

His experience, where managed care profit motives infiltrated and contaminated the professional ethics of his medical group, shows clearly the murky and often brutal influences wielded by HMOs which have only profit, not quality of care, as their goal. In this scenario, patients become ''cost units'' and doctor is pitted against doctor, undermining the very foundation of medicine and throwing to the winds the Hippocratic axiom, ''first of all do no harm''.

With the art and science of medicine controlled by managed care forces, it is not surprising that the number of patient casualties continue to soar. The ability of a clerk with no medical training, in the employ of a payor thousands of miles away, to overrule medical decisions of a trained physician is allowed in no other profession, but is the standard of practice under managed care! Furthermore, this type of employee and also the managed care entity which acts as the puppeteer behind the clerk are completely immune from any legal accountability when their faulty medical decisions cause patient harm. That this situation is allowed to continue is also peculiar only to the medical profession. This is unfair and inequitable.

As an experienced diagnostician with the reputation of being thorough and careful, Dr. Self was criticized under managed care dictates as a physician who ordered too many costly tests and as a ''provider'' who ''still doesn't understand how managed care works.'' Sadly, this situation continues nationwide, as more and more experienced doctors are unjustly censored, dropped from managed care plans or terminated from medical groups anxious to conform to managed care policies, leaving their needy patients feeling confused, frightened and abandoned.

This pillage and waste of medical resources (under the yoke of managed care which destroys the very quality and continuity so necessary for a positive outcome from medical treatment) is running rampant in America. Dr. Self and his wife have put their lives and their careers on the line to combat the wrongs caused by the health care delivery system called managed care. Now, representing, in microcosm, all health care providers, they turn to you as lawmakers, representing all past, present and future patients, to stop the horror and carnage by health plans by voting for the Norwood-Dingell bill, H.R. 2723, and restoring quality, decency and humanity to health care for the American people.

Linda Self, a registered nurse, is, like her husband, a healer. Always active in charitable activities, she returned to nursing full time four years ago to work with her husband when he lost his job. After being away from nursing for many years, she realized that her compassion and love for the art of healing was now even stronger, especially after raising two children, one of whom had a serious illness. Devoted to caring for children with chronic disease and giving support to their families, she was shocked and unprepared for the massive de-emphasis on patient care that had been fostered by health plans. Linda realized that her commitment to people had not changed nor had the needs of such children—what had changed, and changed for the worse, was the indifference to patient suffering held by the managed care system. She realized that in order to care for sick patients and their families in the 90's, there is, and was going to be, a constant controversy with the managed care bureaucracy involving patient referrals, treatment authorizations and, above all, the daily need to appeal treatment decisions lost, delayed or denied by their patients' health plans.

As if also in microcosm to what other private medical practitioners face, this office ''busy work'', in addition to the requirements of providing necessary medical support to sick patients, has created enormous frustrations among health care providers as well as increasing the costs of running a practice. Conversely, reimbursements from health plans have steadily diminished, regardless of the severity of the patient's illness or the increased amount of physician and nursing time expended.

Additionally, in her dual role as nurse and office administrator, Linda works daily to insure that patients receive the appropriate medical care they need and deserve without suffering the indignity and humiliation of having their health plans ignore, delay, or deny health care that is not only medically necessary, but for which the patient has already paid insurance premiums. This endless paper shuffle mandated by managed care with its cost cutting mentality further decreases the amount of time that a nurse can devote to patient care. This Dilemma has driven competent and caring paraprofessionals from the medical field in droves, thereby further weakening the overall quality of medical care needed by patients nationwide. The resulting upswing in poorly trained, undedicated office personnel hired to replace the nursing flight has created a hemorrhage in medical care delivery which, if not stopped, will hasten the demise of American medicine as far as any vestige of quality of care which still remains.

Patients must not be considered commodities to be batered by health plans. Payors must be held fully and judicially accountable wherever their pressures on physicians to curtail tests, delay or deny treatment plans, or by clogging the wheels of medicine with mountains of paperwork cause patient harm. Therefore Linda Self, speaking as a mother, a patient, and a nurse brings her experiences to the House floor and adds her plea to those of Dr. Self and Mr. Zaremski to bring dignity and salvation to the practice of medicine.

Those in the House, listen, as we have done for years, to the voices of the grass roots populace when they cry out for help and relief from a medical system that harms, not

heals. Read, if you will, the numerous e-mails and other written communications from viewers of the ABC ''20/20'' program on Dr. Self and other well wishes after he and his wife's historic jury verdict, which we have included as an attachment to this letter. A sampling of quotations from these communications follows:

As an R.N. I have had similar experiences as Dr. Self concerning HMO's. He is the type of doctor HMO's do not want, since he actually takes enough time for each patient, and does the right thing. A warning to all patients: do not choose an HMO if you have a chronic or rare illness! They will hasten your demise; they are Goliath and you are David. * * * Until patients become better-informed and less passive about their health care, and until doctors start standing up, like Dr. Self, HMO's will continue to run over the patients they are supposed to serve.—Sheryl W. McIntosh

Your August 6 piece on Dr. Self who was fired for ignoring his group's bottom line and putting his patient's needs first was excellent. This is happening more frequently than people realize. Only when people have access to information like you provided—or when they get sick and learn firsthand—do they realize how corporate managed care has affected American lives. I hope you will talk to other medical caregivers and deal with other facets of this complicated problem.—Frances Conn

This might be just the tip of the iceberg. Our health care should not be treated as a commodity, i.e., something to make money on at your or my expense. Neither should it be a political football where the vote goes to the place with the most political donations. * * *''—James A. Eha, M.D.

* * * At first HMOs were VERY good but every single year that passes it gets volumes worse. Now, it is so hard to get a referral, a prescription, a test or an office visit. * * * My husband has to take off work because you have to take the appointment they give you. * * * They make it nearly impossible to get care. They have those drug lists that they are always changing so the doctors are changing your meds all the time making you very sick. They do not allow doctors to do their jobs * * *—Diann Wolf

An identical story happened. . .with my brother who is a family practitioner. . . .He dealt mostly with AIDS patients and the HMO found that to be too costly. He and his fellow practitioners in his office decided to leave the medical practice and regroup mentally to figure what to do. They had spent many months without pay at all due to the methods of saving costs by the HMO. . . . And just so the HMO's could make some money, good doctors are leaving the profession.—Michele Drumond

. . . For the past 11 years I have cared for people in long term care. . . . Just imagine the lack of incentive there is for good care of the elderly or disabled. Many newer meds are not covered as they are not cost effective . . . patient loads rise but staffing does not, rules and regulations of documentation rise, staff does not nor does equitable pay. The diagnosis to dollar mentality is ripping the caring soul and commitment out of medicine. Everyday I ask God to give me both compassion and wisdom in my job, but my soul feels that the battle of excellence in care and cost will always be won by cost. I feel called to this job, and just have to do what I do the best that I can, but NEVER would I want any of my four children involved in direct patient care. The physical, emotional and psychological load is becoming too great!! I strongly believe we will see life expectancy decline.—Barbara Harland, RN

. . .I work for a doctors office. . .I do all referrals, authorizations and surgery precerts for our patients. It has become a nightmare to approve any surgeries without going thru the third degree for patients. They can't begin to realize what we in the ''field'' go thru to get these things approved.—Susie Wallace

'There are men too gentle to live among wolves' to a gentle and courageous man & woman [Tom and Linda Self].—Brian Monahan,

. . .It is a great irony that, after a generation of tremendous growth of our knowledge and our ability to care for patients and diseases in a manner far better than we ever could before, greedy companies are seeking to limit our doing so.—Herbert J. Kauffman, M.D.

. . .I deeply respect what you've accomplished and appreciate the way in which your victory benefits patients and those of us who choose to treat patients according to sound clinical decision-making versus adherence to the masters and dictates of those more concerned with profit than quality patient care. . .—Robert Alexander Simon, PhD.

. . . Seven years ago I was hired as a homecare Social Worker. . . . Then, managed care entered the scene—frequently denying approval for a social-worker's services. Since urgent social worker intervention was often necessary with our patients, there were many times that I was dispatched to the patient's home to provide emergency services . . . only to later receive a ''denial of payment'' from the managed care company . . . [Hospital] required me to find any excuse possible to visit those patients whose insurance would pay, and would cram as many patients as possible every day into my schedule. It was all so very, very wrong. For months this unethical practice tore me apart—and eventually made me very ill. I quit my job. . . . I had been forced to compromise my ethics in order for [Hospital] to maximize their profits. I applaud your courage, and I just wanted you to know that I am proud to be the parent of one of your patients.—Ruth Bronske

You stood tall for yourself and set a perfect example for the rest of us. I am so pleased.—George Jackson, M.D.

. . . Congratulations on winning your lawsuit! Truth always comes out triumphant. Hopefully the HMOS . . . of the world will put the patients' interest first and the bottom line at the bottom as it should be from now on . . .—Faith H. Kung, M.D.

. . . Dr. Self stuck his neck out and he lost his job, but he stood up for what he believed in and hopefully other doctors will do the same. He should be commended for what he did. I hope . . . that if something really bad ever happens to me and I need tests run or extensive surgery done, the doctor better not look at what kind of insurance I have rather than giving me the best medical attention I need that could save my life . . .—Kim Lewis

. . . I have quit the medical field in the past month because medicine is no longer about patient care and needs. It is only about how much money can be made off of them. Thank you for letting me see it is not just the employee that is affected!—Linda Copp

As a legislator, you can therefore appreciate first hand, the anger, frustration, and hopelessness expressed by your constituents such as what we have quoted above. Then, recall the quote by Margaret Mead, ''Never doubt that a small group of dedicated people can change the world. Indeed, it is the only thing that ever has.'' The ''rank and file'', the grass roots populace is, we think, what Ms. Mead had in mind when it comes to health care in our country.

The third major thrust of our letter pertains to the three of us having seen and heard the disingenuous expressions of opponents of what patients really need and which is embodied in the Norwood-Dingell bill. First, we have heard that lifting the ERISA preemption will cause employers to terminate health plans for their employees, that lifting this so-called shield will cause premiums to increase and that trial lawyers will gain an avenue to sue. To all of this, and with all the passion we can muster, we say, ''absolutely not!''

First, ERISA, enacted in 1974, had nothing to do with shielding managed care plans from accountability for their medical decision-making process. There has never been anything in the legislative history on ERISA having to do with this subject. The American Bar Association, not known at all for representing trial attorneys, voted last February 302–36 to lift the ERISA shield.

Next, allowing for accountability by health plans to patients, as contained in HR 2723, provides for real equity in distributing responsibility to all those persons and entities involved in the medical decision-making process. This does *not* mean increased or additional litigation! The liability exposure to managed care entities that would exist with removal of the ERISA preemption shield will force these entities to insure improvement in patient care, by, for example, not allowing clerks to override physician treatment decisions, providing a review process to all treatment denial determinations, etc. As a result, the number of bad-outcomes leading to litigation will likely decrease, leading to less litigation. And where bad-outcomes do occur, allowing direct suits against health plans will not create more lawsuits, but will rather lead to roughly the same number of lawsuits—with one additional defendant. this one additional defendant will better allow a trier of fact to equitably distribute liability to the persons and entities responsible for the harm. In the end, there are fewer bad-outcomes, less litigation and better equity in the distribution of fault.

Also, realize that HR 2723 provides for accountability and responsibility of health plans according to state laws. State courts are where this area of responsibility and accountability for health plans should reside. For example, if your state has ''caps'' on the amount of money that an injured person could receive, such as in California, then those caps would equally apply to exposures faced by health plans.

And if the Texas state statute on holding HMOs responsible is any example, fears of increased litigation are totally without any basis in fact. In the three years since that state's law was enacted, there have been less than a handful of cases filed against health plans in that state. Also, in joining with Georgia legislators, the California[1] state assembly of 80 members (overwhelmingly) passed legislation recently providing that HMOs can be held accountable for their medical decision-making. On September 27, 1999, Governor Grey Davis signed into law this legislation, and, in so doing, stated, ''It's time to make the health of the patient the bottom line in California HMOs.''

In conclusion, we implore each and every one of you to do the right thing. Vote your conscience by voting for the rights of each and every American who has been, or will be, a patient in our health care delivery system. Remember that a person's health is *unlike anything* that can be bought, traded, negotiated or sold. Don't hold hostage human sickness and injury to a ''bottom line'' mentality. Keep in mind the words of a colleague in medicine who wrote Dr. Self after his jury verdict, ''The rewards of being a doctor are largely measured in indentifying what is

[1] California is said to be the ''birthplace'' of managed care.

best for the patient and then having to do what one believes is correct and best for the patient.'' Again, we reiterate the quotation by Mead: ''Never doubt that a small group of dedicated people can change the world. Indeed, it is the only thing that ever has.'' In passing HR 2723, each one of you will heed her message, and, accordingly, insure that the tendrils of greed and disregard for legal accountability in managed care will no longer be able to find fertile soil in which to take root and grow.

Thank you.

Sincerely,

THOMAS W. SELF, MD, FAAP,
LINDA P. SELF, RN, BSN,
MILES J. ZAREMSKI, JD, FCLM.

They say that Norwood-Dingell will restore medicine to physicians not bureaucrats. They say that it will provide for medicine over money and not the bottom line. They say that it will provide for patient care over profits. They say that it will provide judicial accountability for all entities involved in the medical decision, and I agree with them.

Dr. Self said to me, remember that a person's health is unlike anything that can be bought, traded, negotiated, or sold. He said, do not hold hostage human sickness and injury to a bottom line mentality.

Mr. Chairman, I strongly support H.R. 2723, and we will ensure that greed and disregard for legal accountability and managed care will no longer find fertile soil in which to take root. Support H.R. 2723.

Mr. CLAY. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, in this debate we have come a long way. We are actually beginning to agree on some things. I am proud of my good friend, the gentleman from Ohio (Mr. BOEHNER), for having an external review provision in his bill. In fact, we all do, because all of us understand that is precisely the better way to get our patients the care that they need.

I would like to speak to the gentleman from Pennsylvania (Mr. PETERSON) before he leaves. I noticed that he made a couple of remarks about employers, that they are not involved.

I will say, I have been doing this a long time, 5 years, and I do not know many employers I have not met with. I am sure there are not many I have not begged to come to my office over the last 5 years, from General Motors, to Wal-Mart, to IBM, to Caterpillar, to you name it.

I have asked them to come. I have said, look, guys, we have a serious problem going on out here. Help me with this bill. I am not after them. I am simply trying to get people to quit practicing medicine that are not licensed.

They did not want anything to do with it. They did not help. They absolutely did everything that they could do to make sure we do not want anything to happen; we like it like it is; we are in control, and that is what we want.

They did not work with us at all, but I worked with them. I worked with them for 3 years, hard. We met with one of them every day. Here is the bill, help us with it. They would not.

Many employers, and I am sure not all, but many employers have had the opportunity to help us make it better and what they want is absolutely nothing.

Now, why? Well, there are two types of employers. Seventy-five percent, I would say, of the 160 million Americans, are in insurance plans that are partially funded and partially administered, and those employers typically they do not practice medicine. They really do not. That is why we have worked very hard in this bill to make certain those people would not be made liable, because they are not sitting there every day, the CEO, trying to tell the administrator, no, this patient cannot have that surgery but this patient can.

The problem is that other 40 million Americans that are under plans, very good plans, too, the big guys, really good stuff, they do practice medicine, though. The gentleman said they did not, but they do. Just because they make tires does not mean they do not have an insurance company in the backyard. I can guarantee they do, and they make decisions of medical necessity, long distance, untrained people, planned and paid to deny care. That is what they do for a living. These medical directors make big money. They do not last long if they do not deny care.

My problem with that is that they are looking at a computer screen. They are not using the art of medicine, the science of medicine. They are going down a mathematical screen on a computer. People are going to be killed like that. Medicine cannot be practiced that way if the patient is at least not looked at.

They never talk to the patient. They just call up and say, no, my computer screen says no. How could that cardiologist possibly know anything, that has been seeing someone as a patient for 30 years, that is a next door neighbor that a lot is known about?

That is the problem; it is that group.

Do I want them out of this? Yes, because basically they do try to do a good job, and basically have very good plans, but there is not a way to take them out of it because they are practicing medicine without a license; and that, Mr. Chairman, is what the problem is.

If we had it all to do again and go back 5 years ago, what would I do? I would make it a Federal crime to practice medicine without a license. That would stop this mess, because that is indeed what is going on.

Now, why are the employers scared? And they are. I am in sympathy with them about that. They are scared because the insurance industry scares them. They have great practice at this, Mr. Chairman. They have been doing it in States across America for the last 20 years. They go in and scare the bejeezus out of these employers. They say, gosh, if this is not done, if that bill is not killed, costs are going up 25 percent. Guys, if this is not done, we are going to find that everybody gets sued every day.

We do not say that in that bill. My word of mercy, I am for employers, too. We have to support, Mr. Chairman, to change the system, a bipartisan bill. That is the only way that I know to get a law in a split Congress with a Democratic president, but it is so important we have to get it done now. This window of opportunity, where we have my friend the gentleman from Ohio (Mr. BOEHNER); my friend the gentleman from Oklahoma (Mr. COBURN); my friend the gentleman from Iowa (Mr. GANSKE); my friend the gentleman from Michigan (Mr. DINGELL); my friend the gentleman from Arizona (Mr. SHADEGG); we are all pretty close to agreement because we all have recognized the fallacy in a system of practicing long distance medicine by people who make their living by denying those claims.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. FLETCHER), a member of our committee.

Mr. FLETCHER. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me this time.

Mr. Chairman, I appreciate the opportunity to come and speak. It has not been too long ago since I was sitting face-to-face with patients, practicing family practice, primary care.

We also had a program in Kentucky where we cared for those without insurance. We provided that treatment free of charge. And we saw a lot of folks that would like to have insurance. But they were not able to afford it, or the small business that they worked for could not afford it.

We also solved problems with HMOs, and I have the utmost respect for my colleagues, the gentleman from Georgia (Mr. NORWOOD), the gentleman from Iowa (Mr. GANSKE), and the other folks that certainly have addressed this issue long before I arrived here.

I have had the privilege of working in health care in the State of Kentucky, and I do know that projections of increase in costs and those sorts of things are tenuous. The real fact is we do not know how much any of this is going to cost.

I think there was an article yesterday, an editorial in The Washington Post, that advised us to be careful, to go incrementally, to take very careful steps because, in fact, we do not know how much this is going to increase costs and how many more people this is going to leave without insurance and without health care.

We have 44 million people, increasing almost by a million people a year, that are uninsured and have no health care. And we do not need to take health care dollars and run them into another system. We need to make sure they are running in to providing care for patients that really need it. That is why I came here, and I trust that is why all of us came here.

Since I have arrived here, I found one thing out, Mr. Chairman. There are some very loud voices here. I have heard the loud voices of trial lawyers, or people that take that position, providers, employers, insurance companies. Sometimes those voices get so loud that we cannot hear the patients back home. We cannot see the number of folks that are getting the kind of health care that they need because their employer voluntarily provides that.

I have companies like Toyota and 3M, Caterpillar, Johnson Controls, Trane, Cooper Tires, and I could go on and on, Dana, et cetera, et cetera, that offer the kind of health care, and I visited those plants and I have gone through, and I have asked the employees about this. They have some of the best health care in this country. I do not want to threaten that, but we do need to do something to make sure that physicians make decisions not insurance companies.

I think we have done that with many of the bills. We have said, let us make sure we have internal review. And I am glad that we want to make sure it is a physician in many of the bills, but we also say there is an independent panel that can look and decide, a panel of experts decide what is medically necessary and what is needed. And then the decision lies with physicians not insurance companies. I think that is important.

We need to look at the other provisions of the bill. Certainly we want to make sure they have access to emergency room, they have access to the OBGYN and their pediatricians, that they can go to the emergency room so we do not see the kind of problems the gentleman from Iowa (Mr. GANSKE) has brought out about a patient that wanted to go to the emergency room and had to go to a distant one. Our bill takes care of that.

I am very concerned about the Norwood-Dingell bill, because I am concerned about where would some of the money go of increased costs. I want to hold insurance companies accountable, but to open up unfettered liability is something that I have felt like has increased costs. And I think many other folks have documented the increased costs over the years, and I do not think there is any question that it will increase cost and more money will go into the pockets of trial lawyers instead of providing care for patients.

According to the General Accounting Office, it takes an average of 25 months, more than 2 years, to resolve a malpractice suit. At the same time, patients typically receive only 43 cents on the dollar.

□ 1930

Defensive medicine, Mr. Chairman, is the practice of ordering tests, and the American Medical Association has said that about 8 out of 10 doctors practice defensive medicine because of the fear of trial lawyers. One study touted by the AMA, was in 1996, reported by Daniel P. Kessler and Mark McClellen of Stanford University, published in the Quarterly Journal of Economics.

This study found that tort reforms directly limiting the liability of medical care providers could reduce hospital expenditures by 5 to 9 percent within 3 to 5 years of adoption basically by eliminating unnecessary testing associated with defensive medicine.

I want to make sure that physicians make the decision, but I do not want us to put money in trial lawyers or to have the practice increase of defensive medicine. I think it is important, and we have got one estimate of Stanford researchers that extrapolating the savings to the national level of researchers, if we had some tort reform, unlike what is in the Norwood-Dingell bill, would save an estimated $50 billion per year.

I think we need to be very careful as we are doing this. As my colleagues know, we can always come back a year, 2 years, or whatever and improve what we are doing; but I think this leap to the Norwood-Dingell bill, a leap that will increase the costs, decrease the availability of health care, and I discourage or I encourage my colleagues to vote against the bill.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise today in support of the Dingell-Norwood bill, in support of this bipartisan managed care reform legislation, a bill that puts patients ahead of politics and allows us an opportunity to address American's concerns regarding health maintenance organizations. This bill provides important patient protections such as ensuring that medical judgments are made by medical experts, not insurance bureaucrats, ensuring that individuals have access to emergency medical services, clinical trials, prescription drugs.

In addition, this bill ensures that individuals have a right to see a specialist, access to out-of-the-network providers, and holds HMO plans accountable when their decisions to withhold or limit care injures the patient.

We have an opportunity today to listen to the over 80 percent of the individuals in health plans who have cried out for reform of HMOs. We have an opportunity today to make sure that women do not have to see a gatekeeper before seeing their OB/GYN specialist. We have an opportunity to improve the quality of health care individuals receive.

In my congressional district we have 22 hospitals, three VA medical facilities, countless community health centers, half a dozen HMOs all providing quality health services throughout Illinois. This bill will facilitate opportunities for doctors and patients to form a strong relationship and make important decisions regarding their health treatment.

Let us take a historic step forward. Let us vote in favor of Dingell-Norwood. A vote for Dingell-Norwood is a vote for real reform of managed care.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I rise in support of the Norwood-Dingell bill and in opposition to the three substitutes that will be offered. This legislation will restore medical decisions to where they belong, to patients and their doctors.

Mr. Chairman, quality health care should be the right of every American, but this principle seems to have been lost in recent years as more and more people have been forced into a managed care system in which HMOs are involved in a zero-sum gain. Every dollar not spent on health care is another dollar of profit for the HMO. Every incentive in the system is not to allow the specialist referral, not to allow the diagnostic tests, not to allow the treatment. The HMO has every incentive to overrule the doctor's judgment or to exert financial pressure on the exercise of that judgment, and they do so every day.

Mr. Chairman, this destroys the confidence a patient should be able to have in his or her doctor's judgment and often causes unfavorable medical outcomes, avoidable deaths and suffering. The American people are crying out for reform, and this bill provides it.

One of the most important provisions of this bill will prohibit an HMO from providing a financial incentive to doctors to limit treatment for their patients. It is wrong to put doctors into a conflict of interest situation between their medical judgment on the one hand and their pocketbooks on the other.

I introduced a bill to prohibit this practice in 1993, and I am pleased that it has been incorporated into this bill.

We have seen a lot of negative publicity surrounding this bill. The insurance industry has waged a campaign of misinformation. They claim this bill would open up a flood of lawsuits against employers, but anyone who takes the time to actually read the legislation will find that it is a balanced bill that protects the interests of employers, doctors, and patients.

The greatest distortion concerns the liability provision. This provision says that whoever is directly responsible for making a decision that harms a patient must be held accountable for his or her action. If an HMO practices medicine, if it does so negligently, and withholds necessary medical care and the patient is hurt by this, the HMO should be liable to a malpractice lawsuit.

This is a matter of simple justice. It is also the only effective way to deter withholding necessary medical care in order to save money.

Every other person or corporation in this country is held responsible for the consequences of their actions, responsible at law if necessary. Why should HMOs be the only entities in this country not held responsible for the consequences of their actions at law?

Contrary to what the insurance companies would have us believe, this bill would not open employers to liability if their involvement was simply to contract with a negligent HMO, nor would an employer who advocates on behalf of his or her employees be held responsible. This bill would eliminate the common HMO gag rules so that information can flow freely between doctors and their patients.

It would ensure full access to clinical trials, greater choice of doctors and plans, continuity of care, access to services for women and access to emergency care and specialists, and it would hold insurance companies accountable for their decisions. It would go a long way toward ensuring that people have access to the treatment they need. We must not settle for less.

Mr. GOODLING. Mr. Chairman I yield 4 minutes to the gentleman from Arizona (Mr. SHADEGG).

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

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding this time to me, and I want to begin by pointing out the bill. Would the gentleman bring me a copy of the bill? I want to point out that in this debate there is a lot of misinformation. One piece of misinformation that is going around is that this legislation does not protect existing lawsuits authorized by State law.

Here is a copy of the Norwood, excuse me, of the Coburn-Shadegg substitute. If we turn to Page 91, any Member can read the language; and it plainly says for Texas, for Georgia, for Louisiana, every State action has been preserved; and it says that not only are State actions already created at State law by State legislative conduct, preserved, but those authorized by future legislation are preserved as well.

Now let us turn to some of the debate that I think goes to the issue of Norwood-Dingell.

I respect my friend, the gentleman from Georgia (Mr. NORWOOD). I know his intentions are good in this debate. I believe that he has done a great service by forcing this debate to occur here tonight.

But the reality is there are two extreme positions in this debate which is going forward on the floor tonight and will continue tomorrow. Those two extreme positions are represented by the HMOs on the one side who say we must continue to have absolute immunity. On that issue I could not agree more with my friend, the gentleman from Georgia (Mr. NORWOOD), or my friend, the gentleman from Iowa (Mr. GANSKE).

A good friend of mine in Arizona said the other day why would we want people who have to get a license to practice medicine to be held liable, but people who do not have to get a license to practice medicine, not to be held liable? So on that issue, on the concept of liability I agree that we must change the system. But if immunity is one extreme, we cannot ever be held liable when we kill Mrs. Corcoran's baby.

Mr. Chairman, I have to point out that absolute liability is the other extreme; and my friends on the opposite side, from the Democrat side, my friend, the gentleman from Georgia (Mr. NORWOOD), when he joined with them embraced the other extreme in this debate, and that is absolute liability, and let us talk about one example of that.

In their enthusiasm to deal with this, they swept into their legislation fee-for-service plans. I will tell my colleagues fee-for-service plans regulated at the State level should not be brought into your legislation, but they are. They are already regulated at the State level. The State insurance commissioners cannot handle them, and they can already be sued. But my colleagues sweep them into their regulatory net. That is going too far.

Let us talk about lawsuits that can be brought without exhausting the administrative review. My colleagues' bill says the minute somebody becomes dissatisfied with the plan, they can file a lawsuit. It is like simply having to allege that a marriage is irreconcilably broken. All one has to do is decide they want out, decide they want to go to court and they are in court. Well, that is no system. We ought to force patients to at least ask the plan to do the right thing. But my colleagues allow them to sue without any exhaustion of administrative remedies. They just open the door at any time.

Let us go beyond that. Lawsuits over anything.

Our bill says the Coburn-Shadegg substitute says we allow suits over covered benefits. If they cover this benefit, then they got to provide the benefit, and if they do not provide the benefit, we will allow an appeal; and we will probably allow a lawsuit. But my colleagues allow a lawsuit over anything, not just covered benefits; and what that means is that a panel of doctors or a court can come in after the fact and say, you may not have thought you covered this, but we are going to mandate that you should have covered it.

Now think about that from the insurance policies position. They thought they insured this podium, but they have just discovered they insured the table as well, and nobody told them. That is not fair. It is the other extreme of the end of the pendulum.

And what about lawsuits without limits? Nobody, nobody in this system does not understand that if we, and I implore, I implore colleagues to look at the costs that they can drive. If we allow too many lawsuits, we will produce a million more uninsured Americans.

I urge my colleagues to support the Coburn-Shadegg amendment.

Mr. CLAY. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa (Mr. GANSKE) to respond to the gentleman who just spoke.

Mr. GANSKE. Mr. Chairman, let me respond to a couple comments that have been made. I appreciate the comments of my good friend from Kentucky (Mr. FLETCHER). I just wish that he would listen to some of the arguments by the American Academy of Family Physicians that endorses the Norwood-Dingell bill. I would also point out to him a study. He is concerned about costs, costs of litigation? Well, here is a study by Coopers and Lybrand. This study was conducted for the Kaiser Family Foundation. They looked at group health plans where one can sue their HMO. Okay. They researched the litigation experience of Los Angeles School District, California Public Retirement System and the Colorado Employee Benefit System, and what did they show? That the incidence of lawsuits was very low, from 0.3 to 1.4 cases per hundred thousand enrollees per year and that the cost of that was 3 to 13 cents.

Now let me talk about some of the comments that my good friend from Arizona made. I hardly have time. I am glad that now on the fifth or sixth draft of the Coburn-Shadegg bill we are finally going to have an exemption for California and Texas. It has been hard to pin this bill down; it has been changed so many times.

I would also point out, yes, the Coburn-Shadegg bill requires that a patient has to exhaust all available administrative remedies before going to court. That does not make any sense in situations where the patient has already been seriously injured, or even worse, has died.

My colleague is correct. The Norwood-Dingell bill allows patients who have already suffered harm to go to court. How can you justify a provision in yours that says that, Gee, you have to exhaust all of your appeals. They can be dead before that, or they are already injured.

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

Mr. GANSKE. I yield to my friend from Georgia.

Mr. NORWOOD. Mr. Chairman, I would like to ask my friend a question. If that provision were to hold, then would the insurance companies not just simply delay getting them through all these appeals until the patient dies? Then they do not have to pay any benefits.

Mr. GANSKE. Absolutely, and I also point out that the punitive damages relief provision in our bill is applicable to all insurance.

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Mr. Chairman, let us look at the issue of how the Norwood-Dingell bill applies it to everyone. Yes, it applies to fee-for-service plans. Do Members know why? Because that is a benefit to the independent insurance policies.

We have a provision in our bill that the Democrats were kind enough to go along with, a very Republican provision, that says, if a health plan follows the advice of that independent panel, they cannot be held liable for any punitive liability. Think of that. That is tort reform. That applies not just to group health plans, that applies to all health plans.

That means that the Blue Cross-Blue Shield plan in Pennsylvania now will get a total punitive damages liability if they have a dispute and then they follow that independent panel's decision. They do not have that now. That is a very good provision in our bill.

Mr. NORWOOD. If the gentleman will continue to yield, Mr. Chairman, one of the reasons we wanted to make sure that we had good tort reform that would particularly protect the fee-for-service plans is that under State law, which we are pretty fond of, there are only 22 States that cap punitive damages, so we wanted to get them all. We have them all under there. But under State law, there are 24 States that limit non-economic damages.

There is not any Federal tort reform. We have tort reform at the State level. That is where we always have dealt historically with problems in the health care field with medicine, malpractice, and tort, is at the State level. We like it there, because it has these wonderful, absolute limits in there.

Mr. GANSKE. I would remind my good friend, the gentleman from Georgia, is it not Republicans who stand in this aisle who say the States are the laboratory of democracy? Is it not my good friends, the Republicans, who say, hey, we want to get power back to the States? Do Members want to support a bill that eats up States? I do not think so.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I want to thank my colleague for yielding time to me, and for his commitment to health care for all Americans.

Mr. Chairman, I rise in strong support of H.R. 2723, which will provide protection for patients in managed care plans.

Patients should not have to face obstruction when they seek basic health care, and they should have the right to sue HMOs when careless or questionable decisions are made. Patients should not have to agonize with obtaining proper medical care while they struggle with their health problems. During these periods of life, times should be less stressful, rather than more burdensome.

This bipartisan bill allows patients to appeal their grievances when they are denied basic health care. It is wrong that millions of Americans and their families are still denied these simple rights, and continue to be denied for so long now. It is about time that medical decisions be made by the patient and his or her physician, rather than account executives or insurance bureaucrats.

In my home State of California, our Governor, Governor Davis, just signed legislation to enact historic health care reform within the State. These laws offer similar proposals to H.R. 2723 in allowing dissatisfied patients the right to appeal and seek redress from HMOs.

California patients now have many more protections than the rest of the country. Patients across the Nation, however, should also have these protections. We must not limit access to health insurance, but we should put the health of all Americans before the interests of special interests. Let us vote for H.R. 2723, and put people first when it comes to life or death decisions.

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

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

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GOODLING) is recognized for 3 minutes.

Mr. GOODLING. First of all, Mr. Chairman, I want to make sure that if the Norwood-Dingell bill is a tort reform bill, I sure hope the leadership does not ask them to write some major tort reform bill. We are in trouble if that happens.

Let me close by first of all indicating what the Washington Post said recently. I quote: ''Those who favor regulating the industry do so in the name of preserving access to care for those it insures. But to regulate in such a way as to weaken cost containment and price more people out of the market would likewise have the effect of reducing access, just for different folks.''

They continue, ''The need is for greater balance than an increasingly partisan debate such as this may allow. You should legitimatize managed care by keeping it within acceptable bounds without crippling it.''

They close by saying, ''Our first instinct would be to try an appeals system first, and broaden access to the courts only if the appeals process turned out, after a number of years, not to work.'' So I repeat the call I made to my committee so many times, and now make it to the entire Congress.

When the final bell rings, after the conference is concluded with the Senate, if we have not insured the 44 million who are uninsured, we have done a great disservice not only to those 44 million, but to all Americans who are now picking up the burden in the cost-sharing process that goes on. If we have not, at the end of this day or the end of that conference, made sure that we did not uninsure, no matter how unintentional it may have been, uninsure those who are presently insured, then, again, we have done a great disservice. If one person becomes uninsured because of any action that we take here in the House or in conference, again, we have done a great disservice to the American people.

It is my hope that by the end of the time when the conference is over, that, as a matter of fact, we have tackled the number one health care issue in this country, and that is, insuring the uninsured. All should have that opportunity to be insured, and at the same time, making very sure that we do not uninsure by destroying a system that has worked so well that provides health care insurance for 125-plus million people in this country.

Thanks to the Employee Retirement Income Security Act, that has worked. So my hope would be that we build the whole program on the Boehner-Goodling program, so that we do not make a mistake and destroy what it is we are trying to do; build incrementally, starting with Boehner-Goodling.

The CHAIRMAN. All time has expired for the Committee on Education and the Workforce.

Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Maryland (Mr. CARDIN) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I would ask the gentleman from Maryland to proceed.

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

Mr. Chairman, I have been listening to my colleagues debate this issue for the last 2 hours. I marvel more about the fine work that the gentleman from Georgia (Mr. NORWOOD), the gentleman from Michigan (Mr. DINGELL), the gentleman from Iowa (Mr. GANSKE), and the gentleman from Arkansas (Mr. BERRY) have done. They have given us a bipartisan bill, a consensus bill, that will move forward on the Patients' Bill of Rights. It is a good bill. It will make a lot of progress in areas that we need to do.

The first question is, why do we need to pass Federal legislation in this area? There is a very simple explanation. It is called Employee Retirement Income Security Act. We at the Federal level have prevented our States from effectively providing protection to many people in our own State. We have preempted the States, and yet we provide no protection at the Federal level for many of our people who are insured under Employee Retirement Income Security Act plans. Therefore, we need to enact Federal legislation.

The concerns out there are great. We know that in too many cases, medical decisions are being made by insurance company bureaucrats, not health care professionals. We know that HMOs are putting roadblocks in the way of our constituents needing necessary medical services by requiring them to go

across town to see a primary care doctor before they can see a specialist, over and over and over again.

The Norwood-Dingell bill is a reasonable bill that establishes national standards to protect our constituents. Let me just mention a few of the provisions I am particularly pleased with, that I have worked on for many years with many of my colleagues in this body.

There is access to emergency care. We have been working on this bill for many years. I thank my friend, the gentleman from California, for the work that he did in expanding these protections to our Federal health care plans, including Medicare and Medicaid.

Many States have already enacted access to emergency care, as my own State of Maryland has. But the Maryland law does not apply to over half the people in Maryland because of the preemption under Employee Retirement Income Security Act.

Access to emergency care will say that if your symptoms dictate that you need emergency care, the HMO must pay for that emergency care. That is reasonable. Too many times a day HMOs are denying payments of emergency needs because the final diagnosis was not life-threatening. Sometimes we think that they want you to die before they are willing to acknowledge that there is an emergency.

Then there is the independent appeal that I have been working on with many of my colleagues for many years to guarantee that if you disagree with your HMO, you have the ability to have a review of that decision by individuals that do not have a financial stake in the outcome of that review. That is only fair. We have that, again, in many of our States, we have that in our Federal health care plans, but it is not there for Employee Retirement Income Security Act plans, because we have preempted the States' ability to act.

The use of clinical trials. In many cases it is the best health care available for our constituents. The gentlewoman from Connecticut who was on the floor has been very instrumental in moving forward with the clinical trials issues. This bill will provide basic protection to our constituents to be able to participate in clinical trials.

There are many, many other provisions in the bill that go to eliminating the gag provisions, the availability of specialists. Let me deal with some of the issues that the opponents have raised, because I do think they are without merit, and the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD) have both done an excellent job in explaining that.

As far as compliance, the Employee Retirement Income Security Act shields the HMOs from liability. We cannot bring cases against them today for the consequences of their negligent acts. We all agree that that is wrong, so the Norwood-Dingell bill says, okay, let us do it this way.

First, we are not going to hold employers liable unless they are directly involved in the management of the plan. Secondly, in regard to the insurance company, if they follow their appeals process, we protect them from punitive damages. That seems like a reasonable compromise on compliance.

Let me deal with the issue of cost. We have heard over and over again, this is going to increase costs. Mr. Chairman, we have these reforms in place, including the compliance provisions, in many States in the Nation. We have not seen any dramatic escalation of costs. Many of these reforms are already in our Federal health care plans, and we have not seen an escalation of costs. I think good health care will reduce costs, not increase costs.

Mr. Chairman, we have heard it is going to be tough for a multi-State company to comply with laws in different States. Mr. Chairman, historically insurance has been subject to State regulation. That is what we thought was best. A multi-State company has to comply with the different State laws on workers' comp and unemployment compensation. This is not a burden for them to understand how the local court systems work. After all, they are located in these States.

It is for all these reasons and many more that over 300 groups, including health care professionals, consumer groups, the League of Women Voters, urge us to pass the Norwood-Dingell bill, and I urge my colleagues to do that.

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

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

Mr. Chairman, I am sure that by now people trying to follow this debate are thoroughly confused. When we look at the plans, there are significant portions of the various bills that are identical. The reason for that is that in 1997, when we worked together to produce the most significant change in the Medicare system since the beginning of Medicare, the gentleman from Maryland (Mr. CARDIN) and others joined together with me to produce a bill which we thought was responsible in the area of emergency rooms, gag rules, and most of what is in, in a specified fashion, all through the bills.

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Obviously that is not what is at issue tonight and tomorrow. It is the question of who can sue whom, when and how.

If my colleagues look at that and examine the various bills in that regard, what we hear over and over again in an attempt to defend Norwood-Dingell and its reasonableness or appropriateness dealing with employers is ''unless,'' ''if,'' ''and,'' ''but.'' What we have is hedging. Because, frankly, at the end of the day, employers, through no fault of their own, can be liable under Norwood-Dingell.

When employers are faced with potential liability on something which is an option to begin with, which has continued to increase in cost to the employer, there will be some employers who say I have had enough.

In contrast to that, if my colleagues will look at the Goss-Coburn-Shadegg-Greenwood-Thomas substitute, we can say this: employers cannot be held liable if they provide health care coverage, in selecting a plan, in selecting a third-party administrator, in determining coverage or increasing or reducing coverage, intervening on behalf of an employee, or declining to intervene on behalf of an employee.

When we look at what is available in terms of remedies, one of the things that concerns people is the open-endedness of the ability to sue. When we compare, for example, the Norwood-Dingell bill, it basically says that someone has a right to sue for something that is denied to them under a health plan. One also has the right to sue for something that is not under the health plan.

Now, how in the world, when it is entirely possible that a benefit request that is requested for external review does not have to be under contract, and a court can grant a benefit that is not under contract, that creates an open-ended opportunity.

In contrast, the position that the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Arizona (Mr. SHADEGG) have been willing to modify with the gentleman from Florida (Mr. GOSS), the gentleman from Pennsylvania (Mr. GREENWOOD), and myself says that what is adjudicated is in the contract. More importantly, if the plan follows the contract, internal review, and external review, the plan is not liable.

That cannot be said about the Norwood-Dingell plan. If, in fact, there is an ability to bring a charge, no matter how remote, no matter how qualified, it is not the number of cases that are critical. It is the case that says it is not under the plan, and one followed all the rules, but one can still be sued.

No matter how qualified that position is, it is absolutely true that, under the Norwood-Dingell plan, no matter how remote, that can occur.

When an employer looks at that potential exposed liability, there will be, and if one does it, that is too many, a number of employers who will say that exposure, no matter how limited, is too much. That is one of the real key differences that we should be discussing, how much exposure, how much protection, how many safeguards are reasonable and appropriate.

On that ground, I think my colleagues will find that Norwood-Dingell is too open ended, too exposed, too much relying on third parties able to impose themselves and make decisions that are different than were contained between the two parties who originally

wrote the contract. That contract in opposition to the coalition bill is, I think, protected on a far, far higher level.

The gentleman from Georgia (Mr. NORWOOD) has been standing in the well; and if the gentleman from Maryland (Mr. CARDIN) wishes to yield him time, I would be more than willing to respond to him.

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

Mr. CARDIN. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I just simply want to read from our bill about the exercise of discretionary authority. We say very clearly, unlike the gentleman from California (Mr. THOMAS) just described it, we say very clearly in this bill that an employer under any circumstances cannot be held liable for what they want to put in a plan or for what they do not want to put in a plan. That is totally their business, none of mine. They cannot be liable regardless of what happens to anybody. The only way they can be liable is if they deny a benefit, a treatment that is in the plan, and that results in the death of a patient.

Mr. CARDIN. Mr. Chairman, I yield myself 30 seconds to clarify what the gentleman from Georgia (Mr. NORWOOD) was saying.

Not only does the bill specifically provide that there is no cause of action if they do not provide a particular benefit, but what the Norwood-Dingell bill does is say that, if we have a plan of 50 employees in the State of Maryland, that is currently subject to State law, and one that is creative enough to come under ERISA, then we are going to treat both of the plans the same as far as their responsibility is concerned. I think that is a matter of basic fairness.

Mr. Chairman, I yield 3½ minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Maryland for yielding me this time.

Mr. Chairman, I rise in support of the Dingell-Norwood bill. It is the truly bipartisan approach that we need to address the issue of HMO reform.

Now, there are several alternatives, and I believe they are well intentioned. I believe, however, Norwood-Dingell is the better bill for several reasons. First, it is bipartisan. It is the only bipartisan alternative which reflects the thinking of both Democrats and Republicans who are serious about reforming our HMO system.

Second, I want to go to the crux of this debate, which has to do with the right to sue. Again, I believe Dingell-Norwood is a superior piece of legislation. Now, if we listen to the opponents of Dingell-Norwood, we would believe that citizens who need health care really want to buy a lawsuit. That is not what people pay their premiums for. They pay their premiums to get quality health care.

The issue of liability, the issue of suits only arises when benefits are denied, care is improper. Under those circumstances, the citizen, the taxpayer, the consumer, the patient gets the best protection under the Dingell-Norwood bill.

Now, some people, opponents of this bill, would have my colleagues believe that this is really just a boon for trial lawyers, and, for some reason, we on the Democrat side in particular, as proponents of the bill, just want to provide welfare for trial lawyers. Nothing could be further from the truth.

Understand this: the value of the right to sue is not in the lawsuit. It is in the deterrence. Because when HMOs understand that they can be sued, they have a strong deterrent to provide best quality, the best quality of health care. That is the ultimate point. The number of suits in relation to the number of patients is ultimately going to be very small.

But the question is, are we motivated by profit or greed, or are we motivated by the fact that, if we do not provide good care, one's patient could possibly sue one.

Now, my colleagues will also hear, well, this will result in a proliferation of lawsuits, and this will overburden the system and increase costs. Not so.

We have an empirical example in Texas which has implemented a program similar to Norwood-Dingell. They have not seen a significant increase in the number of lawsuits. Quite the contrary. Because, keep in mind, lawsuits are time consuming, cumbersome; and, remember, people do not pay premiums for lawsuits. They pay premiums to get quality care.

Now, Dingell-Norwood says one cannot just rush right into court at any rate. First one has to exhaust an administrative process that allows for both internal review within the HMO and independent third-party review by an impartial arbitrator who can look at the situation. In most instances, that will resolve the case one way or the other. At least based on the Texas experience, that is the case.

On the other hand, if one still believes one is aggrieved and the issue is not resolved, one has the opportunity to go into court to get redress for one's grievances.

The bottom line is simply this, we have maximum deterrence to encourage best practices when we have the optimal right to sue. We do not have an experience that tells us that we are actually going to get an explosion of lawsuits. We have, in fact, a system that has very few lawsuits and protection for consumers. Is that not really what we are trying to accomplish?

I believe Dingell-Norwood best accomplishes this goal and best protects the consumer-patient in the purchase of health care services. I urge adoption of Dingell-Norwood bill.

Mr. THOMAS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, notwithstanding that statement, there is a phrase ''discretionary authority.'' My colleagues can qualify it. They can argue that is what it means. It is not defined.

I guess the most ironic aspect, though, of this discussion is the constant argument that doctors are no longer making decisions, that we have got to put doctors back in the decision-making key positions.

I hope somebody finds that ironic that, in the Norwood-Dingell bill, the question of whether or not someone has been physically harmed is not determined by a medical doctor. It is determined by a jury.

Under the coalition plan, both on the internal review by medical doctors and the external review by medical doctors, that decision is made. In Norwood-Dingell, there is a hole one can drive a medical malpractice case through because one alleges harm and one goes to court. A jury determines something that they have been constantly pleading ought to be in the hands of a doctor.

By the way, was not it desirable for doctors to have medical malpractice? Where is it in the bill? Ironically enough, the argument that they are doing this for doctors does not contain the thing that the doctors have always said they wanted so they would not have to practice defensive medicine, so they would not have to overutilize to protect themselves. Something as simple as medical malpractice, which is present in a number of States, is not available in this bill.

Mr. Chairman, it is my pleasure to yield 7½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a member of the Subcommittee on Health of the Committee on Ways and Means, someone who has worked long and hard on these issues, has examined them, not only from someone who deals with this issue in the Congress of the United States, but who is very familiar with it from her close relationship in the medical community.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I am very pleased that we are having this debate on the floor of the House tonight. I believe that, due to the real intense focus of a group of Members on this issue over the last few months, we have before us three very thoughtful bills.

I do not want the citizens of this country who are watching this debate to miss a very important fact, and that is that any one of these bills would force accountability for health care decisions made by HMOs and able patients to get the care they need.

It is essential that we act during this Congress to pass meaningful patient protections because patients need it, doctors need it, and HMOs need it. For the first time, a national independent external review process will help us identify those plans that routinely deny necessary care.

If we hold them publicly accountable, I guarantee they will change their ways or dramatically lose their patient enrollment. We will also identify those

plans that are providing timely access to quality care and give them the public attention and support they deserve.

Most importantly, a strong external appeals process will reestablish the role of physicians in the health care delivery system as plans must use physicians to review claims internally, and the external review can be made only by physicians with appropriate specialty of training.

So there are many bills before us tonight, but they all have certain core benefits in common. This internal-external appeals process for the first time makes evident nationally controversial decisions made by health plan.

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And that will provide us with the information we need and the power we need to guarantee that patients get the care they need in a timely fashion.

All the bills provide access to OB–GYN care, access to specialists, access to better pediatric care, access to emergency services, continuity of care, access to far better information about benefits, access to clinical trial coverage, and prohibits gag clauses and incentive plans that discourage the delivery of appropriate care. One can hardly say this is a partisan debate when the two parties have come together in agreement on the majority of the issues at hand, and when passage of these positions would address major concerns of the American people and have a substantial impact on the way Americans receive their health care coverage.

Now, there is an additional issue that is controversial and, unfortunately, has turned partisan. Many of us have come to the conclusion that assuring all Americans the right to sue is an important component in increasing health plan accountability. Unfortunately, many of us are also keenly aware that if we create this right to sue in the wrong way that we will create so many opportunities for litigation that the cost of insuring all those possibilities will drive premiums up.

This is an important point, because many Members have said there have not been many suits. Of course there have not been many suits. There is no clear right to sue. But if we look back at physician liability, we can see how suits do drive up costs and how one has to insure to the possibilities not just to the existence. The possibilities of suit contained in the Norwood-Dingell bill will, without fail, increase the number of the uninsured because it will drive premium costs up.

Equally important, if employers perceive themselves as liable, and this is just as big a point, if employers perceive themselves as liable by sponsoring a plan or negotiating benefits, they will drop plans, whether we say they are technically protected or not. So this bill is fraught with dangers, and we must do this job right.

My goal is to place doctors and patients back in the driving seat of health care decisions. Many who have spoken today have worked long and hard to make that kind of reform of the system possible and to assure that patients get the care they need at the earliest stage of their illness. In my opinion, the Dingell-Norwood bill would create systemic incentives to choose lawsuits over timely, independent, external reviews, driving up costs, forcing small employers to drop plans to protect themselves against the possibility of suit, and increasing the number of uninsured Americans.

Without nationwide public review of care decisions, as the external and internal appeals process will provide us, we, as a society, and health insurance, as a product, cannot develop a health care system capable of providing appropriate, timely, and affordable health care. That is why adding the right to sue must be done exactly right and must not be done in a way that creates an explosion of litigation with all the attendant consequences.

I am a cosponsor of the Coburn-Shadegg coalition substitute, because I believe lawsuits are a necessary remedy for patients who have been wronged by their managed care plan's decisions, but I oppose opening up opportunities for lawsuits where none should exist. Let me give my colleagues an example of what I believe to be the systemic incentives to lawsuits contained in the Dingell-Norwood bill.

In laying out the appeals process, internal and external, that bill says the decision must be made within 14 days or as soon as possible, given the medical exigencies of the case. Now, first of all, imagine the Department of Labor writing regulations to define what the medical exigencies are; and imagine the medical community trying to figure out how to comply with those regulations. That is a problem. But the bigger problem is that this passage now creates a case-by-case deadline for the reviewers to meet that can be reevaluated retroactively.

So it is not a 14-day decision. It is a 14-day decision unless it can be done earlier. And that can be a point that can be litigated when we start from the back end of the line and go back and say this process could have made this decision earlier and, therefore, harm has been done and liability is established.

It is that kind of phrase in the Dingell-Norwood bill that gives that legislation, and there are many others I could quote, that create within that legislation a systemic incentive for litigation.

Mr. Chairman, let me close by saying that my goal is to put doctors and patients back in the driving seat of health care decisions. Lawyers driving these decisions is no more desirable in America than insurance companies driving these decisions. The right answer is the 85 percent of these bills that provide greater access to specialists and timely access to appropriate medical care.

On the issue of the right to sue, we must guarantee it protects patients who are harmed by the egregious practices of health plans, and we must provide a clear simple process that avoids the ambiguities that delight trial lawyers, explodes litigations, drives up costs, and drives small employers out of the business of providing health care. The Coburn-Shadegg substitute is the right answer.

Mr. CARDIN. Mr. Chairman, I yield 1½ minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. I wonder if the gentlewoman from Connecticut would return to the mike.

The gentlewoman from Connecticut (Mrs. JOHNSON) is to be commended, because she has really worked hard on a lot of health care issues, but she and I have had a discussion several times on this medical exigencies part. And she has a concern about that.

I think it is necessary to have that in a bill in order that a health plan does not slow walk to the definition. But let me ask the gentlewoman, because I know she feels differently. The gentlewoman would not support a bill that has medical exigency language in it; is that correct?

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. That is correct, I would not support that bill, unless it has a very good appeals process in place.

We were one of the first States to do this, and now the gentleman wants to impose on our appeals process that is working. I do not mind shortening the time. That is not hard for a State to adjust to. But the gentleman wants to impose this language that is very hard to adjust to, and that really throws what is a simple clear system into an unpredictable, and uninsurable liability, I believe, system.

Mr. GANSKE. Reclaiming my time, Mr. Chairman, I want to be clear. The gentlewoman will not support a bill that has medical exigency language in it?

Mrs. JOHNSON of Connecticut. If the gentleman will continue to yield, I will not support the Dingell-Norwood bill because this is one of the passages among many others that create a systemic explosion of litigations.

Mr. GANSKE. Let me point out to the gentlewoman that the bill she is supporting has medical exigency language that she says she does not like, yet she criticizes our bill on, on page 7, on page 11, on page 52, and on page 85. And they all are in the same time frame.

Mrs. JOHNSON of Connecticut. That may be true but it is not in context, if the gentleman will yield.

It is in the context of a totally different ability to sue with all the different definitions. The gentleman talked earlier about the discretion language.

Mr. GANSKE. Here is the language from the bill that the gentlewoman supports. The decision on expedited review must be made according to the medical exigencies of the case. That is in the gentlewoman's bill.

Mrs. JOHNSON of Connecticut. Yes, but in a context that functions very differently than this language does.

Mr. CARDIN. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. MCDERMOTT), a member of the Committee on Ways and Means and a distinguished member of the Subcommittee on Health.

Mr. MCDERMOTT. Mr. Chairman, I thank the gentleman for yielding me this time.

I first want to say that last year, we passed a bill out of this House that was a terrible bill, absolutely terrible bill, and it rightly died over in the Senate. They never did a thing. But the persistence of two Members of this House, the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD) needs to be acknowledged. They knew what was wrong with that bill, and they came back and persisted and put a bill on the floor which makes great sense to anybody involved in the medical profession. That is why hundreds of organizations, of physicians and other health care providers are deeply supportive of this bill. It is because it meets the needs of people who deal on a day-to-day basis in this field.

There are two issues here that I think are really central. We can get into exigencies and all these fancy words, but there are two things that really this bill is about. One is about the question of ERISA. If we allow that Federal law to protect from this bill a whole series of 100 million people in this country, we will not have done a good job.

The reason we need to preempt ERISA is that we have to give everybody, whether they are under a State plan, in Maryland or Washington State or Nevada or working for a major corporation shielded by ERISA, they all ought to have the same protection. There should be no difference. And that, in my view, is what the number of all these other bills are about, is to keep that ERISA protection some way or other that they will be treated differently.

Now, the second issue, and I think this one is more personal. Having recently been a patient and having had open heart surgery, I have been in a hospital and I had my chest opened and they did all this stuff, and within 5 days the doctor came in and patted me on the back and said, ''Jim, you can go home.'' Now, the essence of why we are here on this patient protection act is that everybody, when they are vulnerable, as I felt then, wants to know that that decision was made by my doctor, who knows me and cares about me. I do not want some insurance company person saying, ''Well, let me see. Open heart surgery: 5 days. Home you go.'' I want it to be my doctor that looks at me and listens to my chest and makes the decision.

Now, the gentleman from California says, oh, this is no problem, doctors making the decisions, blah, blah, blah. Is that the reason we had to come in here and pass a bill prohibiting drive-by baby deliveries, as we did 2 years ago? And the next year we came in and we stuck an amendment into a military appropriations bill or something or other, an authorization, saying that we were not going to have drive-by mastectomies. A woman comes to the hospital in the morning; and in the afternoon, she goes home. Who decided that? Did the doctor decide it? No. Insurance companies were throwing people out in the afternoon. And we said, wait a minute, the doctor ought to have something to say about that.

And this whole issue is about whether or not we give the assurance to all the American public that when they are in a vulnerable state after surgery, after cancer treatment, after whatever, that they have the assurance that it is their provider that made the decision about what happened to them. They do not want to sue. I did not want to sue. I simply wanted the assurance that my doctor made the decision.

Mr. THOMAS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

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

Mrs. BIGGERT. Mr. Chairman, I rise in opposition to H.R. 2723, the Bipartisan Consensus Managed Care Improvement Act.

Mr. Chairman, I have heard much talk in this chamber about what is wrong in the area of private health insurance. Members from both sides of the aisle have concentrated on what is wrong with HMOs and ignored the many good things that have happened and are happening in private health care.

□ 2030

What I think we are forgetting is that employers are voluntarily providing health insurance coverage for their employees. What we are also forgetting is that our employee-based system of health care has been the best in the world and most employees are pleased with their care.

Mr. Chairman, I fear that what we are doing today will jeopardize millions of employees who are satisfied with both the cost and protection offered by their plans. Employers throughout my district tell me the risk of liability will drive them out of the health care business. They will simply give their employees a check. Who loses then? Employees.

Without the ability to negotiate the lower rates secured by their employers, employees will be forced to pay rates double or triple for the same coverage.

Mr. Chairman, the challenge we face today is encouraging more employers to offer health insurance, not fewer. We need access and accountability, but reform should preserve our ability to offer more cost-effective quality health care, not less.

I am afraid the bill offered by the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. DINGELL) will produce the latter.

I urge my colleagues to oppose H.R. 2723.

Mr. CARDIN. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, we are experiencing a health care crisis in our country. Forty-three million Americans are uninsured. Almost 11 million of the insured are children. One in five uninsured adults went without needed health care in the past year. This is unacceptable.

Equally unacceptable are the more than 50 percent of insured Americans who are in HMOs and are denied coverage in emergencies, access to specialists, and recourse if wrongfully denied necessary medical treatment. This bill does something about that.

What matters to Americans is their ability to take care of their families in an emergency. What matters to Americans is that their children will not be turned away from an emergency room because the hospital is not on the family's HMO plan. What matters to Americans is that they will have access to the best treatment by the best doctor when they or their children are sick.

This bill will protect patients. No longer will HMOs deny patients access to specialists and emergency care. No longer will HMOs gag doctors and restrict their freedom to disclose medical treatment options to their patients.

Arguably, the most progressive element of this bill will allow patients to pursue punitive damages in State courts when they have been wrongfully denied necessary treatment by an HMO.

It makes me sick to hear opponents of this bill try to convince the American public that we will pay inflated premiums because of this protection. I have news for them. We do not buy it. We know who will pay the price if we do not demand more accountability in health care. The American public.

I urge everyone here to vote in favor of this bill. By doing so, we will take the first step toward addressing the health care needs of Americans.

Mr. CARDIN. Mr. Chairman, I yield 4 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, this really is a historic day for this House. For the first time, Members will have an opportunity to fundamentally change how managed care operates in this Nation.

For far too long, insurance companies have based their treatment decisions not on what is best for their patients but what is best for the companies' stockholders. It is time to put health care providers and patients back into the business of patient care.

We need the Norwood-Dingell bill to ensure that patients have access to emergency care and to specialists. HMOs need to be prohibited from gagging doctors and other providers so that they are prevented from telling their patients of all the treatment options available.

What are the insurance companies afraid of? Are they afraid of their own policies?

Patients also need the right to appeal when they disagree with HMO suggested treatment. The Norwood-Dingell bill grants patients internal and external appeals, a process to ensure that the best possible treatments are made. The bill permits patients or their families who have been injured or die as a result of the HMO's denial of care to sue in State courts.

What is wrong with that? If the insurance companies are confident of their policies, what is wrong with that? This is America.

The Norwood-Dingell bill, however, does not invite frivolous lawsuits. It imposes the number of limitations on lawsuits. These restrictions include those damages only allowable by State law, no punitive damages provided the HMO complied with an external reviewer's decision and no plan would be required to cover services not provided in the contract.

My State of Texas has a patients' bill of rights. This legislation took effect 2 years ago. And while HMOs serve more than 4 million patients in Texas, there have been only five lawsuits resulting from the legislation. That is hardly a flood of lawsuits.

To quote Senator David Sibley, one of my colleagues when I was in the Texas Senate, the bill's Republican sponsor, ''The sky didn't fall'' with its passage.

The number of lawsuits is low because our patients are fully using the external review process, and that is a component of the Norwood-Dingell bill. More than 700 patients have used that external review process in the past 2 years to appeal decisions made by health plans.

Critics of the Norwood-Dingell bill have said it will increase health care costs. Since Texas's bill of rights has been in effect, premiums in our State have been less than the national average, while health care costs rose 3.7 percent nationally in 1998. The Texas health care cost increased only by 1.1 percent. And these are figures done by the Texas Medical Association.

As a former registered, degreed nurse, I strongly understand the relationship between a patient's involvement in his or her treatment and quality health care. We cannot have one without the other.

The Norwood-Dingell bill will create a treatment environment where patients and doctors can work together with insurance companies to produce the best patient care and the best patient outcomes.

I urge all Members to please support this bill. Let us put health care where the patients are.

Mr. THOMAS. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, there was a colloquy just a short time ago on the exigency question. I had said sometime earlier that it was possible to abort the system under Norwood-Dingell and go to jail if they claim that they have been harmed. And it could be denial of medicine for one day, denial of a procedure for one day. That was the point that the gentlewoman from Connecticut was talking about, that although there are numbers stated in the bill, there are ways to short-circuit those numbers and, notwithstanding the internal and external appeal language, go to court.

What was read from the Goss-Coburn-Shadegg provision claiming to be loaded with exigencies is under the section that deals with the emergency 48-hour provision. The 14-day time frame is the ordinary one in which they are required to exhaust the internal and the external. And then based upon the medical exigency, they have a 48-hour capability.

In other words, instead of writing all of the medical conditions that would trigger the 48 hours, they use the phrase ''medical exigency.'' The English word was the same. The location and the usage was entirely different. I will tell my colleagues, that has been the basis for a number of challenges in this debate. Just because a word is there does not mean anything. As most people know, it is the context, the location, and how that word is used.

Let me also point out that although the Clinton administration is pleading for us to move this kind of legislation, and we are talking about in the coalition bill a fast and fixed 14 days in ordinary situations on the internal appeal, 14 days on ordinary situations in the external appeal, and in both situations, depending upon the medical exigencies, 48 hours.

The Clinton administration, with a stroke of a pen, could change the appeals procedure in Medicare. Do my colleagues know what the appeals procedure in Medicare is today? For Part A on a fair hearing, it is 52 days. And if they want to appeal that decision, on average, it is 310 days.

Why are they not making the kinds of changes in Medicare law that they are arguing ought to be imposed on the private sector?

Now, if my colleagues think that is bad, in the Part B appeals provision, currently it is 524 days. It seems to me a fixed 14 days and in serious conditions 48 hours with medical doctors reviewing the appeal, not the rush to judgment, not the claim of harm, not the ability to go to court and let a jury decide whether or not they are harmed, but it seems to me some folks ought to go back and with a stroke of the pen make the changes in Medicare that they are claiming are so necessary to be imposed on the private sector.

Mr. CARDIN. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I appreciate the gentleman yielding the time.

Mr. Chairman, I would point out to the gentleman from California (Mr. THOMAS) that on page 7, lines 25 through 35, are not ''in the expedited care,'' they are ''in the ongoing care.'' And I point out that on page 47, the lines that talk in the Thomas bill are not ''in the expedited area,'' they are ''in the ongoing care'' concurrent review sections.

So I am just glad that my colleague has recognized that there are places in the bill.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, the concurrent care, that is what the word ''concurrent'' means, it is during that 48-hour period.

In the longer 14-day period, that language does not appear. It is appropriate when they have only 48 hours and they look at whether the person can stay in the hospital then it ought to be as quick as possible, and it is the same argument the gentleman gave me about why it is important.

Mr. GANSKE. Mr. Chairman, reclaiming my time, I appreciate the comments of the gentlewoman because it conforms with what we have said in these certain areas. We need to have some flexibility in that.

Mr. CARDIN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Chairman, today we have a chance to do the right thing for millions of Americans who are currently being served by the HMO by holding health care plans accountable when they deny patients the care that they need.

I just suffered through a very painful experience of the death of a very close relative. It was a difficult experience made even more difficult because of the HMO restrictions we face.

For example, a family member is in the hospital for a week and they have to come out and be placed back in because even though the doctor said that the person needs to stay in the hospital or they have to go to a rehab, they cannot go to the one close to their home; they have to go to one miles away.

We know their health care plan should make sense. It should not cause headaches.

Mr. Chairman, this bill brings dignity back to the health care for the 4 million people in my great State of Florida who use HMOs. We did not pass a health care plan in 1993. That did not mean that the problem went away.

Shame on this Congress if we miss this opportunity to provide genuine protection from harm to the citizens that are counting on our leadership. Do the right thing and vote for the Dingell-Norwood bill.

Mr. THOMAS. Mr. Chairman, it is my pleasure to yield 5½ minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise to speak in support of the Goss-Coburn-Shadegg-Thomas bill. And let me explain why, should that not pass, I intend to vote for the Norwood-Dingell bill. But first I would like to make a few general comments regarding how we got into the problem that we are in today in the United States with managed care.

A health care plan in the early 1960s, a plan that we all grew up and became used to where there was very little interference in the doctor-patient relationship cost a family of four a few hundred dollars a year. But along came developments like MRI scanners, CT scanners, third-generation cephalosporins, new surgical procedures to treat glaucoma diabetic retinopathy, all good things that prolonged life, improved the quality of life, reduced disability but significantly increased costs.

□ 2045

The pressure of the cost burden on our health care system led many health care economists to look at the perversity in our health care system, where the doctor was not responsible for costs, nor the consumer; the patient was responsible for costs. Both parties were really not regarding costs at all.

Now, what should have been done was exploring alternatives that actually introduced a true marketplace in health care, which is along the lines of some of the reforms we are trying to establish, but instead what was established was managed care, HMOs.

I would like to say, in defense of those entities, while it is true that there are problems in HMOs and people are being injured and are dying, the system that they replaced was a system where people were injured and were being killed, and the body of information on this is out there. It is abundant.

Many economists looked at the issue that there were perverse incentives that caused providers to provide excessive care in some areas such as Cesarian sections, there is abundant data to show that there were too many Cesarian sections; and, yes, there were people who had unnecessary complications; and some people, unfortunately actually, died from it.

Now, I believe it is entirely in order for us to try today to address the problems, the perverse problem in the HMO field, where there is an incentive not to provide care.

Now, I would like to point out to my colleagues that I met with officials from the AMA several months ago; and at that time, they said to me that they thought that a health care reform package that had a good internal and external review, without any litigation language, would be sufficient; and that is because their primary interest was quality of care.

I believe the people at AMA, that is their real interest, in preserving the quality of care. Unfortunately, some of the leaders of the underlying Norwood-Dingell-Ganske bill had come to the conclusion at the same time that I was having that discussion with the AMA that our leadership on this side of the aisle was so determined not to pass any type of reform that they went over to the other side of the aisle and agreed to a proposal that introduces a tremendous amount of new litigation.

If someone asked me what is the real solution to the problem that is at hand, it is to open up insurance companies and HMOs to litigation because they are practicing medicine. Today, when I make rounds at the hospital, third party payers can come in and say, ''No, Dr. Weldon. If you want to send a patient home in 2 days, we do not agree; they have to go home now. No, they cannot go home on that antibiotic, they will go home on this antibiotic.'' That is practicing medicine, and I believe they should be held accountable for that, in all the facets which they are practicing medicine.

There should be reasonable caps and limits on punitive damages and on pain and suffering claims. The other side of the aisle refuses to agree to any of that language, and the President of the United States refuses to agree to any of that language.

The bill we are primarily talking about right now, the substitute with the name of the gentleman from California (Mr. THOMAS) on it, tries to institute some reasonable limits on litigation, reasonable limits on litigation that I feel most of the Republican supporters of the Norwood-Dingell bill actually want to see in place; maybe not this language.

My hope is that as we move from the House to a conference committee, that we will finally have a product that places patients first and the doctor/patient relationship first and that does not open up American courts to more and more litigation.

Mr. CARDIN. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANKSE. Mr. Chairman, I would just like to thank my colleague, the gentleman from Florida (Mr. WELDON), for his support for the Norwood-Dingell bill. He is a family physician. He has been on the front lines. The American Academy of Family Physicians has endorsed the bipartisan bill.

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

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

Mr. THOMAS. I believe the gentleman made a misstatement, and he can take it on my time.

Mr. GANKSE. What was my misstatement?

Mr. THOMAS. The gentleman said he was supporting the Goss-Coburn-Shadegg-Greenwood-Thomas bill and that under the rule, if it passes, I want the gentleman to characterize accurately his statement.

Mr. GANKSE. Mr. Chairman, reclaiming my time, I was accurately stating that the gentleman from Florida (Mr. WELDON) said that he would support the Norwood-Dingell bill.

I hope we get to the Norwood-Dingell bill, to be quite frank. I know the gentleman from California (Mr. THOMAS) will try to prevent that.

I would point out that the American Academy of Family Physicians has endorsed the Norwood-Dingell bill. They are on the front line. My colleague from Florida is on the front line. He understands that we need HMO reform.

I do want to specifically, though, thank the gentlewoman from Connecticut for her remarks because this is about much more than just a debate on liability. The liability provisions that are in this bill are almost verbatim the ones that the gentleman from Oklahoma (Mr. COBURN) and the gentleman from Georgia (Mr. NORWOOD) and I wrote at the behest of the Republican chairman of the Committee on Commerce. Quite frankly, we thought it was a very good faith effort and compromise on the part of the Democrats to agree to a punitive damages liability provision that we have in that bill that would protect employers from any punitive damages liability if they followed the recommendation of that independent panel. I thought that represented a good bipartisan compromise, and I very much appreciate my colleagues from the other side, but this bill is about so much more than that.

It is about emergency services, people getting the care they need. It is about specialty care, people getting the care they need. It is about people who have chronic care problems getting the care they need; women getting the care they need; children getting the care they need, having continuity of care so that the gentleman from Oklahoma (Mr. COBURN) can continue to see his patients and the HMOs cannot yank him around. This is about clinical trials. The American Cancer Society endorses our bill because we have clinical trials in it, as well as numerous other patient advocacy groups.

This is about choice of plans. This is about getting health plan information to beneficiaries. This is about allowing appropriate utilization. It is about allowing internal appeals. It is preventing gag rules that prevent people from getting the information they need. It is about prompt payment of claims. It is about paperwork simplification. These are all things that are in the bipartisan Norwood-Dingell bill. This is about so much more than liability. This is about patients finally having some ground rules that their HMOs have to follow.

Mr. THOMAS. Mr. Chairman, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN), one of the central participants in this debate.

Mr. COBURN. Mr. Chairman, I would make two notes. Number one, the American Academy of Family Practice

has endorsed our bill as well, the Goss-Coburn-Shadegg-Thomas bill. Number two is, the gentleman from Florida (Mr. WELDON) is an internist, not a family practice physician. Number three is, we do have cancer clinical trials. And, number four is, we in fact have network adequacy which is not in the consensus bill, which is if there is not an adequate network there is not care.

Mr. CARDIN. Mr. Chairman, I yield 30 seconds to the gentleman from Iowa (Mr. GANSKE).

Mr. GANKSE. Mr. Chairman, my apologies to the gentleman from Florida (Mr. WELDON), who is an internist.

I would point out that the American Society of Internal Medicine has endorsed the bipartisan bill, too.

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

Mr. Chairman, I think the choice here is very clear. There have been many groups and many Members working for many years to get an effective patient bill of rights enacted by this Congress. Three hundred groups have endorsed the Norwood-Dingell-Ganske bill. They understand who has been working to make sure we pass a bill that will be effective, that does the right thing. It is very interesting to see the eleventh hour efforts to try to confuse what we should do.

It is very interesting that the Norwood-Dingell bill has been available. People have looked at it. It has been worked on. It has been given the public airing necessary in order to make sure it is drafted properly.

Now, we saw last year those who did not want to see a Patients' Bill of Rights pass but they did, and bringing out a bill without any real effort made to deal with the issues. Now we see this year an eleventh hour effort in order to confuse the people, but the people are not confused. They know where the advocates are. They know where the people are who have been working on this issue, and it is the Norwood-Dingell bill.

Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Maryland (Mr. CARDIN) has 1¾ minutes remaining.

Mr. CARDIN. Mr. Chairman, I yield the balance of my time to the gentleman from Maryland (Mr. HOYER).

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

Mr. HOYER. Mr. Chairman, I thank the distinguished gentleman from Maryland (Mr. CARDIN) for yielding me this time.

Mr. Chairman, I rise in very strong support of this piece of legislation. On Monday, I met with a constituent of mine, Sharyl Asbra of Waldorf, Maryland. She went to the hospital in June complaining of severe abdominal pains. After diagnosing her condition, the doctors recommended she have a hysterectomy, but her insurance company denied the procedure. After weeks and weeks and weeks and weeks of pain, only after Dr. Scott Kelso repeatedly called the insurer on Sharyl's behalf did the insurer relent and let Sharyl get the necessary treatment. This was after she had to be off work, could not care for her children, her mother had to do so, and after she experienced a long period of pain.

This bill is about real people who have a real problem. It is about people who need medical care, as determined by their doctors and by themselves. It is about ensuring that they have access to the medical care that they need, and that that decision will be made by doctors who are trained to make those decisions and who have sworn an oath of personal responsibility to those patients to ensure that they get the kind of quality health care that is available in this country if it will be paid for.

I rise in strong support of this bipartisan bill to help Sharyl and millions and millions of others like her in America.

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

Mr. Chairman, I would tell my friend from Maryland, he cannot have it both ways. When we were debating the rule, there was plea after plea from the other side of the aisle, do not vote for the rule because they would not let us have an eleventh hour amendment to our bill, and yet they say that they have had their bill without making changes.

They cannot have it both ways. Either they pleaded for an eleventh hour amendment, they did not get it and they voted against the rule, or they have a position they have held for some time.

We can read off hundreds of medical associations. They have endorsed the Coburn-Shadegg bill, just as they have endorsed the other. I can say, we fall by the wayside when we reach about 200 endorsements. The reason we do not reach the level of 300, that the gentleman from Maryland cited, is because we do not have the labor unions and the trial lawyers.

The trial lawyers are endorsing their bill. Why? Because their bill will allow trial lawyers, without medical doctors proving harm, to go to the courtroom and have open-ended penalties imposed by juries. Frankly, we do not think those extra 100 endorsements are the kind of endorsements Americans think should be made in today's health care structure.

Our bill makes sure that medical doctors make the decision, and when the plan is wrong, one can sue.

□ 2100

What I find most egregious is the fact that employers struggling to provide health care to their employees if Norwood-Dingell becomes law, will have to examine the exposure to those same trial lawyers and juries and decide if the risk is worth it. It is a sad statement to make, but I believe a factual one; if Norwood-Dingell becomes law, there will be fewer people covered. On the other hand, if the Goss-Coburn-Shadegg-Greenwood-Thomas bill becomes law, we will have an ordered process, internal and external, reviewed by medical doctors, and if the plan is wrong, they have to provide the coverage. If there has been medical harm, they can go to court, and they can, yes, those now famous phrases, sue their HMO, but it is done in an orderly fashion, and guess what? The trial lawyers do not endorse our proposal. Why? Because it is not open ended, and it is not left up to a jury to determine injury. If we are going to advance medical coverage in this country, it is clear one of the things we have to do is to allow patients to get what they rightfully deserve, and, if harmed, to get proper adjudication. But what we do not need is open-ended trial juries with trial lawyers endorsing the process. They proudly announce they have the trial lawyers on their side. We proudly announce we do not, and that, I think, is the bottom line.

Mr. ARCHER. Mr. Chairman, two principles have forever guided this great nation of ours—freedom and liberty. As a democratic nation whose strength is derived from its people, we have achieved unparalleled success, unsurpassed by any nation on this planet. It's no wonder that people around the globe want to come here and be called Americans. We're the envy of the world.

Our nation's health care system is no different. Americans don't travel abroad to get health care. Visitors come here—to the Mayo Clinic, to Mt. Sinai, to the Texas Medical Center, because we are the best.

And the reason our health care system is the best is because it's based on free-market principles, on choice and on individualism. But we lose that choice when we take it out of the hands of doctors and patients and put it in the laps of trial lawyers. As we consider a plan to protect and strengthen a free people who worry about the health care needs of themselves and their families, we must do so with our guiding principles in mind.

The best patient protection of all is health insurance, and the number one barrier to access to cost. But this big government approach makes this problem worse by raising the costs of health insurance premiums even higher, pricing thousands of American families out of the market. But Democrats don't stop there.

After they've raised health costs for Americans and made it more expensive for businesses to provide employees with health insurance, they want to pay for it by turning around and sticking it to those same companies under the guise of ''closing loopholes.'' That's why the National Taxpayers Union and Americans for Tax Reform oppose the Democrats' one-two punch, because it slams the very people that create jobs and provide 70 percent of Americans with their health insurance.

Frivolous lawsuits won't promote individual choice. More trial lawyers won't mean better care. And higher punitive damages won't save one American from falling into the ranks of the uninsured.

The best patient protections we can offer to families and individuals is health care coverage. Forty-four million Americans go without that protection every day. Isn't it time we did something for them, and not the special interests? The American people want the choice and freedom to be examined by a doctor in the treatment room, not cross-examined by an attorney in the courtroom.

Finaly, Mr. Chairman, let me point out that the base bill and the amendments made in order under the rule address tax matters under the jurisdiction of the Committee on Ways and Means.

Specifically, section 401 of H.R. 2723, as introduced, contains a single tax code amendment to enforce the legislation's so-called patient protections through the existing tax penalty structure in the tax code. The bill aims to conform to the structure established in the original HIPAA law by including health reforms in both the Public Health Service Act and ERISA, as well as by reference in the tax code. The Houghton substitute includes an identical provision.

Title III of the Boehner substitute and Title III of the Goss substitute include similar provisions necessary to mirror the proposed health reforms in the tax code. However, these two amendments have been drafted to more closely follow the format used in the HIPAA legislation.

Mr. COX. Mr. Chairman, my colleagues today are addressing very real concerns that patients and doctors have raised. The current system of ''managed care'' imposes restrictions on a patient's choice of doctors. It interferes with the doctor-patient relationship. And it requires patients to navigate through a maze of frustrating health care bureaucracy. Indeed, the only dysfunction the current system does not yet suffer from is an epidemic of litigation that drives up health care costs. More lawsuits is not the right prescription for today's health care ailments. Rather, we need more consumer choice. Choice, quality, and competition should be the watchwords of this debate.

In a competitive market, when consumers don't like what they want, they go elsewhere. In today's health care market, where employers often provide only one health care plan to employees, that is often not possible. Workers who are dissatisfied with their HMO care should have real alternatives to choose from, not just a lawsuit against a plan they didn't really want to begin with.

Today, 90 percent of insured Americans are covered through their employers. Fully 30 percent of employers provide only one health plan to their employees. And a whopping 70 percent offer only no more than two choices. The tragic cause of Americans' lack of health care choice is federal regulation. The tax code provides a special break for employer-provided third-party payment plans. It provides a severe disincentive for individuals to shop for their own insurance, fee-for-service medicine, or other health care not preapproved by Uncle Sam. As a result, individuals are left with a Hobson's choice—employer-provided coverage or nothing. When your employer contracts with an HMO provider, what choice do you have?

Today's bill piles on more regulation and litigation on top of this tragic mess. It further regulates how you interact with your HMO. It does not increase individual choice; it only increases the cost of health care for everyone. Increased health care costs, in turn, mean rationing of services, limits on patient choice, shortages of the latest high-tech equipment, and long waiting lists for operations. Consumers will see an increase in premiums, and many will lose their benefits or their insurance altogether as employers are forces to drop coverage due to higher costs.

It's time to give Americans more choice in their health care, and more control over their health care dollars. Instead, however, this bill takes us towards more and more government control.

Until individuals have an alternative to an employer-provided HMO, the fool's gold of ever-increasing litigation and regulation will beckon us toward disaster. The solution is to resist the calls for more lawsuits and more government controls, and to move to a genuinely competitive market that will empower consumers, put patients and doctors back together and cut out the bureaucracy, deliver reduced costs, provide increased access, and guarantee improved health care quality.

Ms. PELOSI. Mr. Chairman, there are few things more important to family security than access to quality health care. People's health must come before the corporate bottom line. We must preserve and protect the doctor-patient relationship, and put health care providers ahead of insurance company accountants. At least 13 million Californians and 122 million Americans are now without enforceable patient protections on their health care plans. To protect them, Congress must act to pass a real Patients' Bill of Rights.

Take, for example, the person who has a painful health condition. Her doctor would like to prescribe a medication with the fewest side effects, but that drug is not on the managed care company's formulary. Or consider a person with a chronic disease who needs frequent access to a specialist, but is required to get a referral from his primary care doctor for each specialty visit.

H.R. 2723, the Norwood-Dingell Patients' Rights Bill, would provide needed protections for these and other health care consumers. The bill would: ensure access to emergency care without prior authorization; allow people to choose their own primary care and specialty providers; and give patients the right to hold HMO's accountable.

The other bills we will consider today fall far short of guaranteeing many important protections. H.R. 2824, introduced by Representatives COBURN and SHADEGG, and H.R. 2926, introduced by Representative BOEHNER, differ from the Consensus bill in important ways. In particular, they would not provide patients with the ability to hold health plans accountable in state courts, which typically handle injury and wrongful death suits, and are less expensive and more accessible than federal courts.

Mr. Chairman, last week we learned that the number of the uninsured in this country has increased to over 44 million. For years, many of my colleagues and I have insisted that we must expand access to health care. But H.R. 2290, the Quality Care for the Uninsured Act, would institute untested or failed health programs and cost at least $48 billion over ten years.

For example, ''Association Health Plans'' authorized in the bill would repeal state-based health care reform initiatives that address the needs of local consumers, and eliminate several consumer protections designed to prevent fraud and abuse. H.R. 2290 would undermine our ability to pass comprehensive and bipartisan patient protection this year. It should be rejected by the House.

The Bipartisan Consensus Managed Care Improvement Act provides a broad range of important protections for health care consumers. The American Medical Association has stated that the bill is ''the only real patients' bill of rights,'' and the Children's Defense Fund feels that the legislation is ''tailored to meet the health care needs of children and their families.'' I urge my colleagues to support real patient protection by voting for H.R. 2723.

Ms. MILLENDER-McDONALD. Mr. Chairman, our day has been consumed with debate on a desperate rule drafted to derail the bipartisan managed care reform train. This disheartens me because the Norwood-Dingell bill is a good bill. It is such a good bill; the three alternatives have used it as their base. Why is that? Whatever the reasons may be, they are all for naught if this good bill has to be joined with the poison pill train that the Rules Committee placed on our tracks.

The Norwood-Dingell bill allows women to obtain routine ob/gyn care for their ob/gyn without prior authorizations or referral. This is a good step in the right direction.

Mr. Chairman, this bill needs a straight up or down vote. When a straight up or down vote—without poison pills is allowed, I urge my colleagues to vote YES on the Norwood-Dingell bill.

Mr. KUCINICH. Mr. Chairman, I rise in favor of this bill. If HMOs are left free to determine the quality and availability of health care in America, they will have an incentive to deny care to those who need it and reward their executives and shareholders with these quote unquote ''savings''. Studies show that HMO enrollees receive ⅓ less home visits after a hospital stay (1994 Health Care Finance Review study). HMO enrollees are three times more likely to report problems getting medical care than publicly owned and managed Medicare beneficiaries (1969 Study by the Physician Payment Review Commission, a Congressional advisory commission). Meanwhile, private HMO executives are richly-compensated. The total cash compensation received by the CEOs of just the 3 largest HMO companies totaled 33.3 million dollars. Three companies: Aetna, Inc.—$888,568, Pacifi Care Health System Inc.—$1.7 million, Oxford Health Plans—$30.7 million.

Now, our job in Congress is to pass laws. But what good is a law that is not enforced? The easiest way for HMOs to limit health care costs is to deny people care to those who need it most. This bill gives citizens the opportunity to hold HMOs accountable for trimming costs at the expense of the sick. If a lawsuit against an HMO corrects the incentives and ensures that the best treatment will be given to a patient rather than the cheapest treatment, then I say, give people their day in court to enforce the law. And what we really need is a national health care system so that every person has health care coverage and has protected rights under the law. Let's pass H.R. 2723, I urge my colleagues to vote ''yes'' on this bill.

Mr. KLECZKA. Mr. Chairman, the need for managed care reform is clear.

According to a study by the non-partisan Kaiser Family Foundation, nearly nine in 10

doctors say their patients had experienced denial of coverage by a health maintenance organization (HMO) over the past two years. The same study found that as many as two in three of those doctors believe that the denial resulted in a serious decline in health for their patients.

To address this problem, the bill before us today, the Managed Care Patients' Bill of Rights, will establish critical patient protections to ensure that consumers get the health care they've been promised and have paid for.

The Patients' Bill of Rights would: prohibit plans from gagging doctors who wish to talk about treatment options; ban arrangements in which doctors receive incentives to limit medically necessary service; prevent plans from retaliating against health care workers who advocated on behalf of their patients; allow women to see their OB/GYN without prior approval; allow patients to select pediatricians as the primary care provider for children; allow patients with special needs to get a standing referral to a specialist; require coverage of emergency care without prior approval; and allow patients with life-threatening conditions access to approved clinical trials.

None of these provisions have any weight unless patients can hold health plans accountable for the medical decisions they make. This bill would allow patients to do so.

Some insurance companies, business groups and their advocates in Congress claim that if you hold health plans accountable in the courts for their actions the whole health care system will collapse. They say there will be a rush to the courthouse and the cost of health care will shoot through the roof. This is just not so.

For those who claim the sky is falling, let me point to an article that appeared in the Washington Post. As this article explains, two years ago, Texas became the first state to give patients the ability to sue their health plan. Since then, there have been only five lawsuits among the over 4 million Texans who belong to HMOs. Moreover, health care premiums have not increased more in Texas than in the rest of the country.

The Dingell-Norwood bill would ensure that all Americans have the protections which have worked to promote better patient care in Texas. The bill would permit patients—or their survivors—to sue their health plans in state courts when they make negligent decisions that result in injury or death.

H.R. 2723 is a responsible approach to make our nation's health plans accountable for their actions. As a cosponsor of the Dingell-Norwood Managed Care Patients' Bill of Rights, I stand in strong support of this needed reform which will finally put patient protections ahead of special interests.

Mr. WELDON of Florida. Mr. Chairman, I rise in support of the Norwood-Dingell bill, H.R. 2723. I am very supportive of the provisions in this bill which strengthen patient protections and restore the doctor-patient relationship.

I am also hopeful that the final bill that we send to a House-Senate conference will include not only the Norwood-Dingell patient protections, but also provisions that will make health insurance more affordable for the growing ranks of the uninsured. Our failure to address both of these issues will leave the job perilously half done.

I fully support the strong patient protection standards included in H.R. 2723, many of which were included in my Access to Specialty Care legislation from the last Congress. Particularly, I am pleased that the bill provides for a strong internal and external review process. This will help reassure patients that medical decisions about their coverage have received full consideration, not only by an internal board of medical experts, but also by an external board of medical experts.

The bill also ensures that patient have access to the care they need in a timely manner. In addition to providing timely internal and external reviews, the bill ensures that patients' emergency room expenses are covered. For a patient to be second guessed by a health plan administrator after an emergency episode is unreasonable. H.R. 2723 ensures that patients have their emergency health care needs taken care of. It also ensures that they have greater access to the specialty care that they need. This is critical for ensuring that patients have access to the type of provider that can care for their special needs.

In addition to these provisions, I am pleased that the bill ensures that women can designate an obstetrician or gynecologist as their primary care provider. Also, I am pleased that we ensure that parents can designate a pediatrician as the primary care provider for their children. These provisions make perfect sense and they will be of significant help in emphasizing preventive care.

The bill will also ensure that health plan enrollees will have access to full, easily understandable language on what medical services are covered and not covered. Information is the key to empowering individuals to make informed decisions on their health care. Consumers should have a right to know before they sign up with a plan exactly what is covered and what is not covered.

I am pleased with provisions that will ensure that no one gets between the physician and the patient. The patient must have the assurance that their physician is not influenced by any third party when making decisions about their health care. Toward this end, the bill eliminates gag rules that in the past have limited the free speech of doctors when talking with their patients. Additionally, the bill ensures that the insurance companies are no longer permitted to offer perverse incentives that would encourage health care providers not to provide care.

Finally, H.R. 2723 includes liability provisions to hold medical decisionmakers accountable. While I agree that the current system in which the people who make medical decisions to deny care are often not held accountable, I am concerned that the provisions in the Norwood-Dingell bill go too far. I fully support provisions to hold health plans accountable for the decisions they make; however, we must ensure that we do not open Padora's Box by turning the Patients' Bill of Rights legislation into a Lawyers Right to Bill. Any liability legislation must impose caps.

We must recognize that allowing trial lawyers and their clients to walk away with multi-million dollar awards will raise everyone's premiums. The costs of multi-million dollar lawsuit awards will be passed along to everyone in higher premiums to health plan enrollees. That is why I believe it is critical that if the final bill includes liability provisions, we must insist on reasonable caps on damages. While caps may not be in the best interest of the trial lawyers, it is important for average American citizens in ensuring that insurance premiums are more affordable.

Mr. UDALL of Colorado. Mr. Chairman, I rise in opposition to H.R. 2990 and in favor of the Norwood-Dingell Bipartisan Consensus Managed Care Improvement Act.

At some time in their lives, all Americans will be faced with making tough choices about medical care for themselves or their families. At these times, the last thing anyone wants to think about is whether their health plan will pay for what's necessary. H.R. 2723 is a bipartisan solution to many of the problems Americans face with their health plans. The bill creates new federal standards and requirements on all health insurance plans and would cover 161 million Americans, much more than what is covered in the Senate bill.

I believe H.R. 2723 would protect the doctor-patient reationship. It provides a point of service option if the enrollee otherwise does not have access to non-network alternatives. It provides access to emergency room care, specialists, and clinical trials. It gives women their choices of OB/GYN specialists without referrals from a primary care provider. It allows parents to choose a pediatrician as their child's primary care physician. It provides for continuity of care in cases where a provider or insurer is terminated by a plan.

And finally, it will give consumers uniform grievance and appeals procedures, including the right to sue, if their health plan makes a decision that puts them in harms way.

In short, this legislation will help restore the doctor-patient relationship, give Americans better access to care, greater consumer information, and better protections and benefits. On top of all this, it protects employers by exempting them from legal action if they are not involved in a claim decision.

H.R. 2723 is good legislation. It is good for Americans, and it is good for the future health of our country.

The CHAIRMAN. All time for general debate has expired.

Mr. THOMAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KUYKENDALL) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2723) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage, had come to no resolution thereon.

APPOINTMENT TO BOARD OF TRUSTEES OF THE AMERICAN FOLKLIFE CENTER

The SPEAKER pro tempore. Without objection, and pursuant to section 4(b) of Public Law 94–201 (20 U.S.C. 2103(b)), the Chair announces the Speaker's appointment of the following individuals from private life to the Board of Trustees of the American Folklife Center in the Library of Congress on the part of the House:

Ms. Kay Kaufman Sheelmay of Massachusetts to fill the unexpired term of Mr. David W. Robinson; and Mr. John Penn Fix, III, of Washington to a 6-year term.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HILL) is recognized for 5 minutes.

(Mr. HILL of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

(Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. MINGE) is recognized for 5 minutes.

(Mr. MINGE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

WASTEFUL SPENDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I want to continue speaking out tonight about very wasteful spending by the Federal Government. One of the most wasteful, extravagant programs in the entire Federal Government is the Job Corps. It is now costing about $26,000 a year to put a student through this program, $26,000 a year. We could give each of these young people a $1,000 a month allowance, send them to some expensive private school and still save money. If we did that, these kids would feel like they had won a lottery, they would be so happy. We are still giving this scandalously wasteful program increases each year. The bill that will be before us next week increases the Job Corps appropriation to $1.4 billion. If this bill or this program was good for children, then it would be worthwhile spending. However, the GAO has reported that only about 12 percent of the young people in this program end up in jobs for which they were trained, and that is after you give the Job Corps every benefit of the doubt and stretch the definition of a Job Corps type job to ludicrous limits. Actually the Job Corps is very harmful to young people. It takes money from parents and families, money that they could be spending on their children, and gives it instead to Federal bureaucrats and fat cat government contractors. That is who really benefits from the Job Corps program, the bureaucrats and the contractors.

Also, there has been a real crime problem in the Job Corps program, including murders and many drug-related and very serious crimes. People who really want to help children would vote to end this very wasteful program or at least make them bring their cost per student down. $26,000 per year per Job Corps student is just ridiculous.

Second, Mr. Speaker, I consider national defense to be one of the most important and legitimate functions of our national government, and the military is continually crying about a shortage of funds. Yet we find that the Air Force has spent $1.5 million to remodel the house of the commandant at the Air Force Academy including $267,000 simply to redo the kitchen. $267,000 should have bought a beautiful new home instead of being just blown on a kitchen. Now we find that the Navy has taken $10,260,000 from operations and family housing accounts to fix up the residences of three admirals. This comes out to more than $3,420,000 per home. These were the houses of the Chief of Naval Operations in Washington, the Commandant of the Naval Academy in Annapolis, and the Commander of the Pacific Fleet in Honolulu.

Let me quickly mention two other examples of very wasteful spending.

A few years ago I read a column by Henry Kissenger which said that the 50 to $60 billion we had sent in aid to Russia over the previous 5 years or so had just been wasted. In 1991, Senator Sam Nunn, the Georgia Democrat, said giving monetary aid to the Soviet Union was like throwing money into a cosmic black hole. But do we ever learn? No. Now we find out many billions more of U.S. taxpayer money to Russia has been put into private accounts that are hidden all over the world, and our wealthy elitist foreign policy establishment will make fun of and sarcastically criticize anyone who opposes sending Russia many billions more.

One final example is the $625,000 taxpayers have been ordered to pay by a Federal judge because Interior Secretary Bruce Babbitt and former Treasury Secretary Robert Rubin illegally withheld documents in a lawsuit over Indian trust funds. The judge regretted that the burden would fall on taxpayers and that he could not fine the Cabinet secretaries themselves.

We see over and over and over again that the Federal Government cannot do anything in an economical, efficient, low-cost manner. We see over and over again that today we have a Federal Government that is of, by and for the bureaucrats instead of one that is of, by and for the people.

Finally, Mr. Speaker, we see over and over again that if you want money to be wasted and spent in ridiculous, lavish ways, just send it to the Federal Government.

MANAGED CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, we have had a tremendous debate all evening on managed care, and we will continue to do so even tomorrow.

I received a letter from a physician in my community that I think reflects the position that Americans should take on this issue. It comes from a Dr. Elizabeth Burns, medical doctor, professor and head, College of Medicine, Department of Family Medicine, University of Illinois at Chicago. Doctor BURNS said:

Dear Representative Davis:

As a practicing family physician in your district, I want to ask you to support meaningful management care reform when it is considered in October by the House of Representatives. Your support for the Bipartisan Consensus Managed Care Improvement Act of 1999, H.R. 2723, or the Health Care Quality Choice Act of 1999, H.R. 2824, would be responsive to the needs of my patients and your constituents. Meaningful, comprehensive managed care reform is greatly needed right now in your district.

Below are the principles I see as important in any managed care reform proposal:

Reforms need to cover all health care plans, not just self-funded plans. Patient protections should protect all patients.

Gag clause protections need to be extended to all physicians. Physician patient communication must be protected and extended to health insurers' contracts. Unfettered medical communication is undeniably in the best interests of patients, all patients. Any final bill needs specific language stipulating that any provision of a contract between a health plan and a physician that restricts physician-patient communication is null and void.

Physician advocacy must be protected. Managed care reform must include provisions to prevent retaliation

by a health plan towards physicians who advocate on behalf of their patients within the health plan, or before an external review entity. Family physicians, as primary care physicians, play a pivotal role in ensuring that their patients get access to the care they need. Health plans should not have the power to threaten or retaliate against physicians they contract with to provide needed health care services.

Independent external review standards must be truly independent. Managed care reform must contain a fair, independent standard of external review by an outside entity. It makes no sense to pay an outside reviewer to use the same standard of care used by some health plans which may limit care to the lowest cost option that does not endanger the life of the patient. All of our patients deserve better.

Patients need the right to seek enforcement of external review decisions in court. Managed care reform must allow patients to seek enforcement of an independent external review entity decision against the health plan. Without explicit recourse to the courts, the protections of external review are meaningless.

Patients need access to primary care physicians and other specialists. Managed care reform must allow patients to seek care from the appropriate specialist, including both family physician and obstetricians/gynecologists for women's health, as well as both family physicians and pediatricians for children's health. Primary care physicians should provide acute care and preventive care for the entire person, and other specialists should provide ongoing care for conditions or disease.

And so you see, Mr. Speaker, from patient to physician, from consumer to provider, those who want serious reform and serious change know that the Dingell-Norwood bill is the way to go.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Oklahoma (Mr. ISTOOK) is recognized for 5 minutes.

(Mr. ISTOOK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

(Mr. SOUDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TWO EXTREMES IN THE HEALTH CARE REFORM DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. SHADEGG) is recognized for 5 minutes.

Mr. SHADEGG. Mr. Speaker, I want to begin by thanking my colleague, the gentleman from Illinois (Mr. DAVIS). He read a letter from a doctor, a constituent of his, who said that he supported two bills, and I think it is very important to note that of the two numbers he read off, the second number that the doctor wrote him about said he supported H.R. 2824.

I think the doctor is right about that. H.R. 2824 is the Coburn-Shadegg bill, the bill that I have cosponsored, and his medical doctor constituent wrote to him to say that he favored either the Norwood-Dingell bill or the Coburn-Shadegg bill. I hope tomorrow the gentleman from Illinois (Mr. DAVIS) will cross the line and do exactly what that doctor said, support the Coburn-Shadegg bill, because it is a reasonable alternative.

I want to talk for a moment about the two extremes in this important health care debate. One extreme says we should do nothing about the faults in the Employee Retirement Income Security Act. One of our colleagues, the gentleman from Mississippi (Mr. PICKERING), his father is a district judge. He has written a number of opinions in this area. I want to quote from those.

I sent around a series of dear colleagues: ''ERISA abuses people. Courts cry out for reform.'' Here is what Judge Pickering wrote: ''It is indeed an anomaly that an act passed for the security of the employees should be used almost exclusively to defeat their security, and to leave them without remedies for fraud and overreaching.''

Second in this series that I want to talk about, ''ERISA abuses people, courts cry out for reform,'' is a decision written by Judge William Young of the Federal District Court in Boston. He writes, ''It is extremely troubling that in the health insurance context, ERISA has evolved into a shield of immunity which thwarts the legitimate claims of the very people it is designed to protect.''

I want to conclude this series by again reading from another opinion by Judge Pickering in which he says, ''Every single case brought before this court has involved an insurance company using ERISA as a shield to prevent employees from having the legal redress and remedies they would have had under the longstanding State laws existing before the adoption of ERISA.''

Not amending ERISA is an extreme position that will hurt the American people. But I want to point out, there is another extreme position in this debate. That second extreme position is represented by the Norwood-Dingell bill.

The Norwood-Dingell bill is extreme in several regards. First and foremost, it does not protect employers from liability. I want plans held liable. I do not want Mrs. Corcoran's baby to be killed and the plan to be able to walk away, as happened in Corcoran versus United States Health Care. But when that plan is held liable, I do not want the employer held liable. The employer just hired the plan. The employer just wanted to offer health care to his or her employees.

The Coburn-Shadegg proposal, now joined by the gentleman from Florida (Mr. GOSS), the gentleman from Pennsylvania (Mr. GREENWOOD), and the gentleman from California (Mr. THOMAS) protects employers. Employers are not liable unless they directly participate in the final decision. That is the key language.

That means, and here is the debate, and Members will hear this from industry, an employer is not liable, cannot be sued, for merely selecting a plan or for merely deciding what coverage ought to be, or for selecting a third party administrator.

An employer cannot be held liable for selecting or continuing the maintenance of the plan. They cannot be held liable for modifying or terminating the plan. They cannot be held liable for the design of or coverage or the benefits to be included in the plan. They can only be held liable if they make the final decision to deny care. That is the way it should be.

I want to go on to point out that the other extreme position represented by Norwood-Dingell is lawsuits by anyone, as my colleague, the gentleman from California (Mr. THOMAS) pointed out, that let the jury decide injury. Our bill says no, you have to have a panel of doctors to decide injury.

Lawsuits at any time. They do not want you to have to go through internal and external review. They do not want to have to give the plan a chance to make the right decision. They want to just go to court.

Lawsuits over anything. Our legislation says it has to be a covered benefit. Their legislation says you can sue over anything, just get the lawyer and go to court. Their bill says lawsuits even when the plan does everything right. Our legislation says, no, if the plan makes the right decision, you should not be able to throw the book at them in court and drag them and blackmail them into making a settlement.

Their position is lawsuits without limits. They want all kinds of unlimited damages. There are over 100 organizations, not trial lawyers, but over 100 organizations endorsing the Goss-Coburn-Shadegg-Greenwood-Thomas proposal. I urge my colleagues to join us in passing this needed legislation.

A RULE WHICH MAKES PASSING GOOD MANAGED CARE REFORM DIFFICULT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, in this Republican Congress, the special interests who write the big checks get the last word. The day before the House

began its debate on the Patients' Bill of Rights, the only bill that takes medical decision-making away from insurance company bureaucrats and returns it to doctors and patients, the gentleman from Illinois (Speaker HASTERT) sat down with 15 health care lobbyists who paid $1,000 each for one last chance to make their case.

The health care industry has cultivated the Republican leadership with strong-armed lobbying efforts and well-placed campaign contributions, over $1 million from the Health Benefits Coalition, a group of insurance groups alone.

House Republicans, led by the majority whip, the gentleman from Texas (Mr. DELAY) and the gentleman from Illinois (Speaker HASTERT) are doing everything they can to kill reform to please their contributors in the health insurance industry. Mr. Speaker, that is why they put forward the rule today that was adopted on an almost exclusively partisan vote. Almost every or actually every Republican voted for the rule, and almost every Democrat except for one or a few voted against the rule.

Mr. Speaker, I just want to talk a little bit, if I can, about this rule and why it is making the ultimate question of passage of good managed care reform difficult.

The rule, instead of providing a fair and open rule for considering the Patients' Bill of Rights, basically stacks the deck by insisting on provisions that blend the managed care bill, the Patients' Bill of Rights, with a measure riddled with special interest poison pills designed to kill the Patients' Bill of Rights, the Norwood-Dingell bill, and that denies the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD) the opportunity to offset any potential revenue losses from the measure.

The Republican bill basically combines a so-called access bill, H.R. 990, and the managed care bill, the Norwood-Dingell bill, together. The measure will combine essentially a meaningful managed care bill with a special interest-laden boondoggle of a bill that masquerades as a health access bill.

There is no question that this rule which was adopted today, I would say again, on almost exclusively a partisan vote, is nothing more than a cynical, desperate, last-minute attempt to stave off a bipartisan Norwood-Dingell managed care bill that was on the verge of passage.

I am very fearful, Mr. Speaker, about what kind of success we are ultimately going to have here tomorrow with regard to the Norwood-Dingell bill because of the way that this rule provides for us to proceed, and because of the stark choices that many Members will have to make; had to make today on the so-called access bill, and will have to make tomorrow on some of the substitutes to Norwood-Dingell.

I wanted to talk about this phony access bill that was voted on today, again, almost exclusively on a bipartisan basis. Most of the Republicans voted for the access bill and most of the Democrats voted against it.

First of all, I would point out that it is designed, according to the Republican leadership, to try to improve access to health insurance for the over 40 million Americans that have no insurance, who are right now uninsured. But the phoniest aspect of this, if you will, is that the bill, this access bill, spends Federal dollars on tax breaks that do more to help the healthy and the wealthy than the uninsured.

According to the General Accounting Office, nearly one-third of all uninsured Americans do not pay income taxes. These families would not be helped at all under the bill that was passed today. Instead, the greatest benefits under the bill would go to the 600,000 uninsured families that make almost $100,000 per year, because the value of shielding income from Federal tax is greater for those in the highest tax bracket.

In addition to not helping the uninsured because so many of them essentially are not paying taxes, or are not paying that much to benefit from this bill, the bill expands medical savings accounts, a special tax break for the healthy and wealthy that threatens to increase health insurance premiums for everyone else.

My point is, Mr. Speaker, that the so-called access bill today, which the Republican leadership claims is trying to get more people into insurance plans and out of the ranks of the uninsured, in fact will make it more difficult for those who are uninsured to buy insurance because the costs will go up. That is accomplished, first of all, by putting in the poison pill of the medical savings accounts, the SMA's, as well as new Federal regulations that would disrupt State health insurance markets.

With the SMA's, and this is nothing new, this is something we have seen over and over again over the last couple years in an effort to try to defeat managed care reform, this poison pill, which was included in the 1996 bill, basically is a tax break for the wealthy.

The new Federal regulations that would disrupt State health insurance markets that are in this bill, the access bill, basically are two proposals called association health plans and HealthMarts, both of which would offer cheaper, less comprehensive policies that bypass State consumer protection, insurance, and benefit requirements.

Like medical savings accounts, these new plans and networks would be able to cherrypick the healthiest out of the State-regulated health insurance market, which could result in higher costs for those still in the State-regulated market.

In addition, like medical savings accounts, the association health plans are supported by big contributors to Republican candidates.

Mr. Speaker, my point is that this access, this so-called access bill that was adopted today, really is mucking up, if you will, the possibility of passing real managed care reform because it will travel now with whatever managed care reform bill that we adopt tomorrow and go over to the Senate together.

It means that whatever managed care reform bill we pass tomorrow will now have these other provisions attached to them, attached to it, that basically are going to make it more difficult to pass in the Senate, more difficult to adopt in conference, if the Senate and the House ever get together to try to come up with a bill that both houses adopt, and undoubtedly will result in a veto by the President, because he could not possibly sign provisions like the SMA's, like the HealthMarts, that basically break the insurance pool and make the costs to buy insurance for those who do not have it even more costly than it is today.

I would like to go on, though, and talk about what is going to happen tomorrow. The access bill is passed, the rule was passed. There is not much we can do about it tomorrow. But tomorrow we have more debate, which began tonight, on the Norwood-Dingell bill, and three substitutes that have been made in order under the rule which really, again, are nothing more than an effort to try to kill and water down the Norwood-Dingell bill.

I have said over and over again on the floor of this House and in this well that the two major advantages and overall goals, if you will, of the Norwood-Dingell bill are fairly simple, fairly easy for the average person to understand.

First of all, the first principle, the first goal of Norwood-Dingell, says that on the one hand, right now most decisions about what kind of medical care we get, what type of operation we get, or what kind of equipment we can use, or how long we stay in the hospital, or all the other things that define adequate health care, the decision as to what type of care we get is essentially now made by the HMO, by the insurance company.

That is not the way it should be. What should be and the way it used to be a few years ago was that the physician, the doctor, our doctor, and us, the patients, would determine what kind of care we were going to get.

We want to turn that around. In the Norwood-Dingell bill, we want to go back to the old days, essentially, when decisions about the type of care that we as Americans receive are basically decisions made by the physician, the doctor, and us, the patient.

The second thing we do in the Norwood-Dingell bill is to say that if we have been denied care that we and our physician think we should have had, then we have to have some adequate way to enforce our rights and overturn that denial of care. That is essentially done in two ways with the Norwood-Dingell bill.

First of all, there is an independent review, so that we do not have to go to

the HMO and appeal their decision, and essentially appeal to them or someone who is within the HMO to decide the appeal. Rather, we go to an external, independent review board not controlled by the HMO, which has the ability to overturn that decision and provide us with the care that our physician and we say we need in a very quick, expedited way.

Failing that, if for some reason this independent external review does not work and we are still denied care that we and the physician think we need, then we have the right to go to court and seek an action to overturn that denial of care. Or if the situation has resolved itself so that we were denied the care and we suffered damages, we were injured, we suffered, or God forbid, died, then we would be able to sue in the courts for damages as a result of that denial of care.

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Now, all this makes perfect sense; and, frankly, I do not know what the big deal is. Any time people have a grievance and they suffer damages, they normally can go to some kind of review and take some kind of appeal and ultimately go to the courts.

What we are told by our colleagues who support the Republican leadership on the other side is that that is not acceptable. In fact, the previous speaker made the point that it is not acceptable; that the Norwood-Dingell bill goes too far in providing enforcement actions.

Well, let me just say, if I could, a few things about these substitutes that are going to be considered tomorrow and why they do not establish the two goals, they do not meet the two tests that I have already mentioned; and that is, who is going to decide what kind of care one gets; and, secondly, how one is going to enforce one's rights if one was denied care.

We have three substitutes that will be considered tomorrow. I just want to basically go through some of the key concerns I have with these substitutes and why I ask my colleagues to vote no against them and to let us have, instead, the Norwood-Dingell bill as the base bill that we are voting on.

Let me take first the Boehner amendment in the nature of a substitute. This bill does not include many important patient protections. Now, I have not spent the time this evening going into all the patient protections, all the specific patient protections that the Norwood-Dingell bill provides, and there are many. I have talked about them many times, so I am not going to go through them all this evening.

But I did want to talk about the patients' protections that are in the Norwood-Dingell bill that are not in the Boehner substitute. The Boehner substitute does not apply to all Americans in privately insured plans. It fails to extend protection to millions of Americans who purchase insurance individually.

Now, my colleagues have to understand that, in the other body, a managed care bill was passed in the Senate that basically covered very few people.

The tremendous advantage of the Norwood-Dingell bill is that it covers everybody, anybody who has insurance. Well, if my colleagues were to adopt the Boehner substitute tomorrow instead of the Norwood-Dingell bill, basically millions of Americans who purchase insurance individually would not be covered.

The Boehner substitute also does not include a provision on accountability or liability. It, therefore, provides no meaningful remedies at all for individuals in employer plans. It takes away current remedies by placing restrictions on all health care liability claims, including those in State court.

The bill also does not include access to specialists, an important aspect of the Norwood-Dingell bill, access to non-formulary drug, another important aspect in the Norwood-Dingell bill, protections for patient advocacy or limits on financial incentive arrangements that induce providers to withhold care.

One of the things that is most abusive today and one of the biggest criticisms that I receive from my constituents is that, right now, HMOs provide financial incentives to physicians not to provide care. That is an awful thing. But that is the reality today in the managed care system for many people.

The Boehner bill does not do anything to correct that, whereas the Norwood-Dingell bill does. The Boehner substitute's external appeals provision would require external reviews to use the plan's definition of medical necessity.

When I talked before about how the Norwood-Dingell bill, one of its two major goals is to make sure that the physician and the patient decide what kind of care one gets, that is because, in the Norwood-Dingell bill, the definition of medical necessity, what is medically necessary is made by physicians. It is a standard developed in the particular specialty by the doctors in that specialty area. So that, for example, for cardiology, the Board of Cardiologist standards would hold sway.

Well, the Boehner substitute basically says that, in doing an external review, the plan's definition, the HMO insurance company's definition of medical necessity holds sway. So there again, the HMO is going to decide what kind of care one gets. Reviews would only decide if the plan followed its own guidelines, essentially rubber stamping the HMOs decisions.

The Boehner bill also says that plans control, HMOs control what information patients have to submit to the reviewers. The patient does not have the right to submit his or her own evidence. There is no requirement that reviews be made in accordance with the patient's medical exigencies. A review panel could take up to 30 days.

Again, the problem with these substitutes to the Norwood-Dingell bill is that, if one has been denied care, one is not going to be able to have an effective appeal in a timely manner. That is one of the biggest problems with the Boehner substitute.

Now, let me talk about the Coburn-Shadegg-Thomas substitute. The gentleman from Arizona (Mr. SHADEGG), just a few minutes before I spoke, talked about how wonderful this substitute was. I would point out that the Coburn-Shadegg-Thomas substitute, the second substitute that will be considered tomorrow in lieu of Norwood-Dingell falls short on many important patient protections.

There is a $100 threshold to get to external review. A person who is denied a simple, yet life-saving, test would never get the review. There is no ability for patients to get access to off-formulary drugs when necessary.

The Coburn-Shadegg bill only requires coverage of routine costs of cancer trials, leaving patients with other devastating diseases without any protections. Emergency coverage under the Coburn-Shadegg bill for newborns is judged by a prudent health professional standard. That could mean that plans could deny payment for a larger range of neonatal emergency care.

But let me also talk about the enforcement aspects of the Coburn-Shadegg bill. Again, if one is denied care, how does one enforce one's right to overturn that denial and have the care provided? Well, under the Coburn-Shadegg substitute, there is an entirely new Federal cause of action.

HMOs can require an enrollee, a patient, to go to a certification panel that would decide whether the person was injured and whether this was caused by the HMO. If the panel finds for the HMO, the suit is dismissed.

The bill basically caps the amount of noneconomic damages a person can receive. It also undermines existing remedies because it requires that a person go through the bill's Federal remedy before seeking any State remedies.

What we are seeing here is a series of hoops. I have to be honest. I felt that the gentleman from Arizona (Mr. SHADEGG) was actually being somewhat honest when he was saying that there were major limits on one's ability to sue in the substitute that he has co-authored. Well, why should that be? Why are all these limits placed on one's ability to sue if one has seriously suffered damage? I mean, this is not right.

What we are trying to do here in the Norwood-Dingell bill is to basically make sure that one has a remedy, a right to enforce one's rights, and to make sure that one is not denied care. Any effort to basically water that down, to me, makes no sense and should be defeated.

Mr. Speaker, let me lastly talk about the third substitute that the House will consider tomorrow, and that is the Houghton substitute or Houghton amendment.

It strikes the liability provision from the Norwood-Dingell bill and replaces

it with a weak Federal remedy under ERISA. The Federal remedy would preempt a long history of allowing States to provide appropriate remedies for various harms suffered by their residents.

All we are doing in the Norwood-Dingell bill is saying that one has a right in State court or under State law to sue in the same way that one would for any other damage that one suffered.

Well, why should we go along with the Houghton amendment which basically strikes that liability provision in Norwood-Dingell and creates another Federal remedy under ERISA? ERISA is the Federal law that preempts the State law and then makes it so that, even in States like Texas or New Jersey, where we have patient protections on the State level, that one does not have any right to those protections because one's employer may be self-insured; and, therefore, one falls under the Federal ERISA law.

Well, the Houghton amendment would basically strike the provisions from Norwood-Dingell and give one another Federal ERISA remedy rather than being able to sue under State law. This Federal remedy under the Houghton amendment is full of loopholes and would allow plans, HMOs to escape liability.

The Houghton amendment provides bonding arbitration in place of external review and access to courts with minimal, if any, protections for consumers against bias.

Once again, Mr. Speaker, I urge my colleagues to look carefully at these substitutes tomorrow, and they will find that, in every case, they limit the ability of an American, of our constituents to be able to get quality care and to enforce their rights to make sure that they get their quality care. That is why all those substitutes should be defeated, and we should simply pass the Norwood-Dingell bill.

I wanted to mention a few other things tonight about some of the attacks that we are getting and that I am sure will intensify tomorrow against the Norwood-Dingell bill, which I think have been effectively refuted by those who support the Norwood-Dingell bill, but I want to mention them again because they continue unabated.

We are told, of course, the old thing, that the Norwood-Dingell bill, the Patients' Bill of Rights, is going to allow for numerous lawsuits, and that that is going to increase the costs of premiums, and ultimately employers will drop coverage for their employees because the costs will be too high.

Well, I think that that has been effectively refuted by the fact for the last 2 years that the State of Texas has had on its book a patient protection act very similar to the Norwood-Dingell bill. The reality is there have been only four lawsuits filed during that 2-year period in the State of Texas, and the cost of premiums have gone up less than they have in States that do not have those same kind of patient protections.

I do not think anything more needs to be said on the issue of costs or the issue of suing the HMO and liability and excessive lawsuits than to look at the Texas example.

But the other attack that we are getting again was made by the gentleman from Arizona (Mr. SHADEGG) earlier this evening when he said that the Norwood-Dingell bill would allow for employers to be sued; and because employers would be sued, they would drop coverage because they would not want to be the subject of lawsuits.

Well, again, that is not accurate. The Norwood-Dingell bill has very specific shield language that shields the employer from liability unless they are actually involved in the decision to deny one care.

I would say that even the gentleman from Arizona (Mr. SHADEGG) admitted that, if they are involved in a decision to deny one care, they should be sued.

The bottom line is that it is only the Norwood-Dingell bill that provides this kind of a shield to make sure that employers cannot be sued. To suggest somehow that that shield will not work again is inaccurate.

I just wanted to cite a reference that has been made again by some of my colleagues today and on other occasions, the myth that is being promulgated against Norwood-Dingell on this point is to say that employers would be subject to lawsuits simply because they offer health benefits to their employees under ERISA.

Well, section 302(a) of the Norwood-Dingell bill specifically precludes any cause of action against an employer or other plan sponsor unless the employer or plan sponsor exercises discretionary authority to make a decision on a claim for covered benefits that results in personal injury or wrongful death.

Now, how do we define exercise and discretionary authority? The myth again being promulgated by those against the Norwood-Dingell bill is that employers' decisions to provide health insurance for employees will be considered an exercise of discretionary authority. That is simply not true.

Examples of the types of decisions that health plan administrators make that directly affect the care that patients receive and could be considered medical decisions include inappropriately limiting access to physicians through restricted networks, refusing to cover or delay needed medical services, drawing treatment protocols too narrowly, offering payment incentives, or creating deterrence to discourage the provision of necessary care, and discouraging physicians from fully discussing health plan treatment options, the so-called gag rules. These are not decisions that employers make.

The Norwood-Dingell bill excludes from being construed as the exercise of discretionary authority decisions to, one, include or exclude from the health plan any specific benefit; two, any decision to provide extra contractual benefits; and, three, any decision not to consider the provision of the benefit while its internal or external review is being conducted.

So the bottom line is the employer is shielded from liability. That is the simple truth. That is why the Norwood-Dingell bill should be adopted tomorrow and not some of these substitutes that claim to improve on the law.

Now, let me just say one thing finally if I could, Mr. Speaker. It sounds kind of crazy, but I have heard some of my colleagues say, well, why do we need to pass the Norwood-Dingell bill? Why do we need Federal legislation to address the abuses of managed care, because, after all, the States are doing this, and even the courts are doing it?

I mentioned the Texas law. I mentioned the other day, and some of my colleagues have talked about it, California really recently enacting a law which was signed by Governor Davis just a few days ago.

We have also heard about court cases, a recent decision by the Illinois Supreme Court that ruled last Thursday that HMOs may be sued for medical malpractice.

Just last week as well, the Supreme Court assigned itself an important role in the debate over managed care, the U.S. Supreme Court, by accepting a case on whether an Illinois health maintenance organization breached a legal duty to a patient whose appendix burst during an 8-day wait for a test to diagnose her abdominal pain.

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So some of my colleagues are saying to me, we have some States that are passing laws, let them continue to do so. Or we have the court, this case Illinois or maybe even the Supreme Court of the United States, that will ultimately say that an individual has the right to sue the HMO, so why do we need the Norwood-Dingell bill? Well, the fact that many States have decided that they cannot wait for Federal action and have passed these measures to strengthen patient protection should not be an excuse to not have Federal action.

The bottom line is, and if I could just read from an editorial that was in The New York Times the other day, it talks about why State laws are not sufficient, and it says and I quote, ''State initiatives do not replace the need for Federal legislation. For one thing, none of these State protections apply to people in self-insured plans created by large employers, which are exclusively federally regulated. More important, current Federal law has long been interpreted to bar patients covered by private employer-sponsored health plans from suing for damages caused by improper benefit denials, although the Supreme Court this week decided to hear a case that will review this issue. The California legislation tries to get around the legal hurdle by framing the new State-granted right to sue as based on the right to obtain quality care rather than the right to particular benefits. That approach will clearly be

challenged in court and may well be struck down unless Congress closes the loophole in Federal law that now shields health plans from meaningful liability.''

Mr. Speaker, if I am one of the people, one of my constituents out there who has been denied care, I can assure Members that it is not going to make me feel good that I do not come under the patient protections because I happen to be in an ERISA federally-preempted plan, or that I have to wait for the courts, whether it be Federal or State courts, to find a loophole so that I can sue the HMO.

Again, Mr. Speaker, I would say it has been an interesting debate today. I think it is very unfortunate that the rule passed. I think it is unfortunate that this access bill passed now, and that whatever we do pass tomorrow will have to be incorporated in this so-called access bill that I think provides a number of poison pills and will make it difficult for the Norwood-Dingell bill to move in the Senate or to be resolved in conference.

But I would still urge that tomorrow is also an important day, and we want to make sure that the Norwood-Dingell bill passes and is not superceded by some of these other three substitutes that basically will water down the protection and the enforcement rights for our constituents that exist in the Norwood-Dingell bill.

I urge my colleagues tomorrow to support the Norwood-Dingell bill and to vote ''no'' on all the substitutes.

ISSUES OF CONCERN

The SPEAKER pro tempore (Mr. KUYKENDALL). Under the Speaker's announced policy of January 6, 1999, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, this evening I want to address really three subjects. The first two subjects will be quite brief.

One, satellite TV. Many of my colleagues, who like me represent rural districts in this country, have a deep concern about the reception and the need for local access on satellite TV.

The second issue that I intend to address this evening is the Brooklyn Art Museum in New York City. I have gotten a number of phone calls into my office from people who appear somewhat confused on my position in regard to that. I want to make sure this evening that position is clarified.

Then I intend to move on to the third subject, which will consume most of my time this evening as I address my colleagues, and that is the anti-ballistic missile treaty. My comments will be highlighted by the term, and Members have heard it before, the race against time.

What is the anti-ballistic missile treaty and what is the impact that the anti-ballistic missile treaty has on us all as average citizens? What is the threat to this country of continuing to try to comply with the terms of the anti-ballistic missile treaty?

I will go into a definition of what the anti-ballistic missile treaty is, about our national defense against missiles, and I think we will have at least some detail for a somewhat educated exchange this evening on the pros and the cons of the anti-ballistic missile treaty.

Mr. Speaker, let me begin with satellite reception across the country. As I mentioned, my district is the Third Congressional District in the State of Colorado. My district is unique in geographic terms in that this district has the highest elevation of any district in the United States. We have over 54 mountains above 14,000 feet. TV reception in the Third District of the State of Colorado is as important to the people of the Third Congressional District of Colorado as it is to the people in New York City, or as it is to the people in Kansas, or as it is to the people in Los Angeles, or up in Seattle.

TV has become a very important part of our lives. Now, I am not this evening trying to get into the pros and cons of watching television, but I am getting into the ability to have local access through satellite. Many of my constituents, and many of my colleagues' constituents, if they live in rural areas especially in this country, or even if they live in an urban area but have some challenges because of geography or buildings or things like that, are looking to satellite for their TV reception. And I think it is important that these satellite receivers, the users, have an opportunity to have local access, which they have been denied for a period of time.

We have a bill right now that passed out of the House overwhelmingly, passed out of the Senate overwhelmingly, and we have the two bills now in what is known as a conference committee. My good friend, the Senator from the State of Utah, is the chairman of that conference committee, and I am assured that that conference committee is working very hard to come out with some type of compromise so that those constituents of ours who are using satellites will have an opportunity in the not-too-distant future to have the right to local access.

I am confident that we can conclude this in such a manner that it will not be damaging to the other competitors out there but will allow satellite to be at least at the same level as cable TV.

Now, Mr. Speaker, let me move to the second subject, the subject that some of my colleagues who have been on the floor when I have spoken before know I feel very strongly about.

I will precede my comments by telling my colleagues that at times in the past I have supported government involvement in certain art projects. I think art is fundamentally important in our country. I think there are a lot of things about art that help our society become more civilized and so on. But that said, I, like all Americans, have limitations. And those limitations, of course, were tested, intentionally tested, recently by the Brooklyn Art Museum in New York City.

Let me explain what is happening at that museum. That museum, which is funded in part, in large part, by taxpayer dollars, by taxpayer dollars, decided to put on a show, an art show, an exhibit, that displayed, amongst other things, the Virgin Mary, which is a very significant symbol of the christian religion, but to exhibit a portrait of the Virgin Mary with, for lack of a better word, although they say dung in my country they understand it as crap, with crap thrown on the portrait. It is disgusting. The artist knows it is disgusting, the Brooklyn Art Museum knows it is disgusting, and the directors of the Brooklyn Art Museum know it is disgusting.

But they have decided to defy what I think is common sense, and they have decided to stand up and say it is their right, trying to paint it under the constitutional right of freedom of speech, it is their right to use taxpayer dollars, taxpayer dollars, it is their right to use those dollars to pay for this exhibit. I disagree with that.

Now, let me say at the very outset, so that I am perfectly clear, this is not, this is not an argument about the first amendment of the Constitution, freedom of speech. No one that I have heard, no one that I know has said that this exhibit, as sick as it is, should be prohibited from being shown somewhere in the country by any individual. We believe very strongly in this country about the freedom of speech and about that first amendment in our constitution. That is not the issue here. They have tried to paint the issue as a first amendment issue. It is not a first amendment issue.

The issue here is very clear. Number one, should taxpayer dollars be used to pay for this exhibit? Now, some people say, well, how do we decide what is offensive? How do we decide when taxpayer dollars should be used or should not be used? The decision, to me, is pretty easy, and I am sure the decision to a number of my colleagues is pretty easy. It is called a gut feeling. I wonder how many of my colleagues out there would take a look at the portrait of the Virgin Mary with dung, or crap, thrown all over it and their gut would not tell them that something is wrong; that this is not right; that this should not be happening.

Now, to me, that decision would be no more difficult than looking at a portrait of Martin Luther King with crap thrown all over it. That is not right. It should not be exhibited with taxpayer dollars. And whoever would do that is sick, in my opinion. It is not a display of art. But there is that right of freedom of speech.

I can tell my colleagues what has happened in the Brooklyn Art Museum is they have decided to put that exhibit up and they have decided to test it and

use taxpayer dollars. Well, what have they done and why is a congressman from the State of Colorado and the mountains of Colorado worried about an art exhibit in New York City? Well, number one, I am a Catholic and I am personally offended by what has occurred here.

But that is not the primary issue. The primary issue is that I am a supporter of the arts. But I think by these prima donnas in New York City at the Brooklyn Art Museum deciding to display this portrait of the Virgin Mary with crap thrown all over it that these prima donnas have damaged the art community throughout the United States, including in the Third Congressional District in the State of Colorado.

I am sure my colleagues can understand how hard it is sometimes to go to our constituents and to defend the fact that we have voted for government funding of some type of art project, no matter how worthwhile it is. These prima donnas at the Brooklyn Art Museum, do they take that into consideration? Do they take into consideration that they are offending the christian communities out there?

I can tell my colleagues right now that the Brooklyn Art Museum and those prima donnas would no more think about putting a Nazi symbol in the museum and pay for it with taxpayer dollars, they would not think of doing it with a Martin Luther King portrait, they would not do it with an AIDS quilt, those beautiful quilts that are made in memory of the people that have suffered that horrible tragedy, and then have crap thrown on that blanket. They would not think about it. In fact, they would probably join in a protest to take down the building or destroy the building. But when it comes to Christianity, they think it is okay.

And then, beyond that, look what these prima donna directors at this museum, and the director of the museum, are doing to the art community. Do they need to harm the programs that we now have in place where we have legitimate worthwhile art projects that are paid for in part with taxpayer dollars? Do they need to put those in threat of extinction? Do they need to do that? They do not need to do that. They have a lot of money there at the Brooklyn Art Museum. They can pick up a phone and call one of their benefactors, they have a lot of wealthy benefactors at that museum, and they can ask for them to pay for the exhibit. They do not need to use taxpayer dollars. The only reason that they are using taxpayer dollars is because at that museum they want to put their thumb in the face of the American citizen.

Now, I have gotten some calls in the office, as many of my colleagues do when we talk about a controversial subject. I have gotten some threats about my future in politics because of my philosophy that we should not be using taxpayer dollars here. But those people that call me with those threats, those people that think they are justified in displaying art like the Virgin Mary with crap thrown all over her, at taxpayers' expense, those people that call me on the phone, in my opinion, colleagues, have a very difficult time. In reality, when they are by themselves, they have a very difficult time when they get up in the morning looking at that mirror and saying to themselves that what they did today and what they are going to do tomorrow is justified; that it makes a lot of sense to go ahead and use taxpayer dollars to fund this kind of garbage.

Now, some people have called my office saying, ''How dare you call any kind of art garbage. How dare you act so offended by this piece of art. This is an artist's right of expression.'' Of course, they do not answer the question, they usually hang up on me, when I ask them about some of these other examples I have cited earlier. But I am telling my colleagues that there are limitations.

First of all, I think the average person, just their gut reaction is deep offense, deep offense at a portrait of the Virgin Mary or a portrait of a Jewish leader or a Buddhist leader that would have crap thrown on it. There is an inherent standard of character with the American citizen that says there is not a place for that. Do not put that in our society, especially with taxpayer dollars.

□ 2200

So, my colleagues, those of your constituents who disagree with me, let me make it very clear. I think they are a minority. I think that the average American out there wants character standards in this country and says there is no place for this type of art.

Let me now move on to the subject of which I intend to spend most of my time and which is entirely separated from either the satellite issue that I just spoke about or the fight we are having over the Brooklyn Art Museum.

By the way, let me include one other thing. Mayor Giuliani in New York City has come under criticism because he yanked the taxpayer dollars. Well, I will tell you something, Mayor, you are doing the right thing.

The second thing I should point out is some of my colleagues, I heard it well, what the Republicans are trying to do is exercise censorship on the art community. What a bunch of bogus baloney. What do you mean exercise censorship? Those are taxpayer dollars, Democrats. And for you to come out in the press and say the Republicans are trying to exercise censorship is ridiculous and you know it is ridiculous.

Do not evade the issue. Do not try to push it off under the first amendment. It has nothing to do with the first amendment. It has to do entirely with, number one, should you be doing that in a public institution, but number 2, should you be allowed to use taxpayer dollars for those kind of expressions.

Mr. Speaker, let us move on to my other subject, the race against time.

Many of us in this country assume that if this country were to come under attack by missiles of another country that we would have a defense.

I live in the State of Colorado. Just outside of my district and the district of my good colleague the gentleman from Colorado (Mr. HEFLEY) who represents the community of Colorado Springs, the County of El Paso, there is a mountain called Cheyenne Mountain. That mountain has been bored out. In fact, a small community is now within that mountain that is called the NORAD Defense System inside Cheyenne Mountain.

Within seconds, and I do not know the exact details because it is classified or the details I do know are classified, but, generally, within a very short period of time, if any country in the world launches a missile, NORAD in Colorado Springs, through its detection devices, can pick up, one, that a launch has occurred; two, the direction of the missile; three, the speed of the missile; and a lot of other things; and, of course, they can pick up the target of the missile.

Well, we have known this for a long time. NORAD is one of our proud accomplishments at providing a defense for the United States of America against our enemies. In the past we really only had one country capable of delivering that type of missile attack against the United States. It was Russia. But what a lot of people mistakenly assume is that once we detect within a very short period of time that a missile has been launched against the United States of America, then we somehow can defend against that missile.

Well, the bad news that I bring my colleagues this evening is that we have no defense. We have the technology. We are even gaining more technical capability to defend this country against a missile attack. But we do not have a defense system in place to stop those missiles.

I want to say at the beginning of these comments that a lot of the information that I have gathered over the years on the Anti-Ballistic Missile Treaty has been gathered from some of the experts at the Wall Street Journal. I want to commend to my colleagues, I hope you have an opportunity to read any of the articles that the Wall Street Journal has on the Anti-Ballistic Missile Treaty.

But let us go over a few facts about our military defense. One, as I just told you, we can detect a launch, we can determine when that missile is coming, where it is coming from, and where it is going to hit. But then all we can do is call up the target and say, you have got an incoming ICBM and we will say a prayer for you because there is not much else we can do for you.

That is wrong. Henry Kissinger once said, ''It is morally irresponsible not to provide for the people of your country

a missile defense system.'' ''It is morally irresponsible not to provide the people of your country a missile defense system.'' I was at the World Forum about 3 years ago in Vail, Colorado, and there Margaret Thatcher said exactly the same thing. These people are people of intellect. They are people who have had many experiences through their lives and they realize the importance of having a defense system in place.

Let me go through a few facts for my colleagues. The Cox report. Remember what the Cox report was about? The Cox report was a bipartisan, not a Democrat, not a Republican, a combination of Republican and Democrat congressmen, and I say that generically, who investigated the Chinese espionage.

It is said, and from what I have read and the briefings I have gotten I believe it to be true, that the Chinese espionage was the worst and most devastating espionage we have had in American history. The Cox report reveals that Communist China has moved almost overnight from a 1950s nuclear capability to the most modern technology in the American nuclear arsenal.

In the opinion of many of the experts, as I just said, this could be the most damaging failure in American intelligence history.

Fact number 2: The ABM Treaty, the Anti-Ballistic Missile Treaty, is over 27 years old. It has not been amended. It is a treaty that exists only between two countries, between Russia and the United States. Remember earlier in my comments I mentioned that at the time this treaty was put together and in the early days of the missiles, the only country really capable of delivering a significant and severe blow to the United States was Russia.

This is a very important fact and one we have got to remember: Today over two dozen countries have the capability to deliver a missile into the United States. Many of these countries are in the process of building even more sophisticated delivery systems.

We know, for example, what the North Koreans are doing. The answer, by the way, of the administration to the North Koreans is, buy them off, get them to promise that they will abandon their nuclear program and we will give them more aid. We give them a lot of aid right now, I think 500,000 barrels of oil a year and money that the North Koreans promised us they will not put into the military, they will put into food for their citizens.

What kind of fools are we? These people do not have our interests in mind. They do not care about the United States of America. They do not care about our future.

Now, that is not to say we need to go to war with them. I am not advocating that at all. My position is, however, if somebody picks a fight with us, we ought to be in shape to handle it, because at some point in the future it is going to happen.

Do my colleagues not think that we have an obligation to the generation behind us, if not our own generation, to be ready when that day comes? It is a race against time.

We need a missile defense system. We need a defense system that, as stated by the Heritage Foundation, is a defense based on land, sea, and space. Here it goes, space.

Remember when Ronald Reagan was President and he got ridiculed, frankly, he got an awful lot of ridicule from the Democrats, he got a lot of ridicule for his proposed missile defense system in space? Well, you know, the day is coming when we are going to look back at Ronald Reagan and say he knew what he was talking about on that missile defense system.

In fact, we must put into place a missile defense system based on land, based on sea, and yes, based on space. Having a missile defense system in space gives us many, many more options. In other words, instead of waiting for the incoming missile to come into our country where we try and intercept it with a one-shot opportunity, we can then, through satellite detection and so on, hit the missile in several different stages as it arcs over to our country. We can actually hit it on the launching pad.

There are lot of options out there and we should not eliminate any of them and we should not allow our hands to be tied by this Anti-Ballistic Missile Treaty. I am going to explain a little more on the Treaty and what the Treaty means. But the world has changed a great deal since the ABM Treaty was first ratified, over 27 years ago. The U.S. faces a lot of new challenges and there are a lot of different types of threats that are coming at us today.

Take a look at China and take a look at what China has gotten into their espionage and take a look at the capabilities. The Chinese are very bright people and they know and they want a future, not only a future as a giant in economics, they want to be the leading country in the world in military.

As many of you know, and some of you may hate to admit it, but the fact is you cannot be the second strongest kid on block. You cannot do it, especially if you have something else that the strongest kid on the block wants. You have got to be the strongest.

That is not to suggest that you got to be a bully and you got to go out and pick fights. But it is to say that if you are not the strongest, you are going to be in a lot of fights.

It is interesting. Let me tell you, I have been very blessed over the years with many high school students coming into my office, very bright. That generation has got a lot of things going for it. There are a lot more things going right for this generation than going wrong. But once in a while when these classes come in and I have an opportunity to speak with some of these fine young people, someone brings up the question, why do we spend so much money on military defense? Why do we worry about a missile defense system in this country?

I say to them, if you were a black belt in karate and everybody in your class knew that you were a black belt in karate and everybody in that class knew that if they decided to take your lunch or pick on your friend or pick on you that you would exercise the knowledge you have as a result of your black belt in karate and you break their nose or break their neck, how many fights do you think you would be in? How many people do you think would pick a fight? Not very many.

I forget who I should attribute this saying to, but there is a quote and it should be attributed, but I cannot remember who it was, but the quote goes something like this: The best way to stay out of a war is to always be prepared for a war. That is the best way to stay out of it.

Well, let us talk about another fact, the Rumsfield report.

Former Defense Secretary Donald Rumsfield and his team of defense experts, now remember, this is bipartisan, this is not a Republican deal, not a Democrat deal, it is a bipartisan team, the Rumsfield report, and we have real experts on that. We do not have some congressmen. We are real experts on missile defense that are on this panel. Here are their conclusions, and they are important conclusions to remember. Lock them in because it impacts our generation and every generation to go forward.

Former Defense Secretary Donald Rumsfield and his team of defense experts issued a report to the United States Congress in the summer of 1988 that said ballistic missiles from rogue nations could strike American cities with little or no warning. Ballistic missiles from rogue nations could strike American cities with little or no warning; that North Korea has been said to be building missiles with a 6,200 mile range that could reach Arizona or even Wisconsin; that Iran is working on missiles with the capability to hit Pennsylvania or Montana or Minnesota; that there is a fear that Russian missiles may be bought by one of these nations or a terrorist like Bin Laden, that when dealing with terrorists arms control negotiations do not work.

Well, let us talk about the Anti-Ballistic Missile Treaty. I am going to read this. And let me again attribute a lot of this information right here to the Wall Street Journal. I think they are very accurate in their description. And my colleagues, I would ask that you be patient but listen to the words as I read through.

''Anti-Ballistic Missile Treaty meant to hold the populations of the United States and Soviet Union hostage to nuclear attack.''

Now, what do they mean by that? What the Anti-Ballistic Missile Treaty does. The essence of it, very simplified, is that Russia and the United States agreed over 27 years ago, look, one way to deter war is to not have the ability to defend against it. In other words, one way to make sure you never pick

on anybody is to be sure that you never get a black belt in karate.

□ 2215

So they come up with the Anti-Ballistic Missile treaty, which in essence says that Russia cannot build a defense against incoming missile attack and the United States cannot build a defense against an incoming missile attack. The theory of this is that the United States would never then go to war with Russia because we have no way to defend ourselves and, vice versa, Russia would never go to war with the United States because Russia has no way to defend itself.

The language of the Anti-Ballistic Missile treaty expressly forbids the development of a national missile defense, allowing each side to deploy just 100 land-based anti-missile intercepters, capable of shielding only a small region. The United States observed the treaty and still does. Yet, from the onset there were troubling signs that the Soviets were not.

Now a new book provides disquieting evidence that the treaty has proved to be a gigantic sham and an enormous deterrent to the security of the United States of America. In the book, the ABM Treaty Charade, a Study in Elite Illusion and Delusion, William T. Lee, a retired officer with the Defense Intelligence Agency sets down a devastating twofold case against the treaty.

First, it increased the risk of nuclear war during the Cold War. Second, there is conclusive proof of violations on a massive scale, both by the Soviet Union and post-Communist Russia. Champions of the treaty argue that it reassured the Soviets, dampened the armed race and brought stability to the United States-Soviet Union relations.

In reality, by leaving itself defenseless against missiles, the United States had encouraged Moscow to prepare to win a nuclear war. Soviet annual defense expenditure climbed steady to about 30 percent of gross domestic product in 1988, from about 15 percent in 1968. So 15 percent in 1968 to 30 percent in 1988. In 1981 through 1984, although it was not widely understood at the time, the Soviet Union had nearly launched a full scale attack against the United States and its NATO allies. Had America deployed a missile defense around 1970, which by the way it could have done with technology at that time, the Soviets would probably have found the quest for nuclear supremacy prohibitive from the start and would have never, ever considered or come as close as they did to launching a nuclear attack against our Nation.

To make matters worse, in utter contempt of the treaty the Soviets conceived, tested, deployed and refined a missile defense. Not only did the USSR, unlike the United States, deploy the one missile defense permitted by the treaty, leaving Moscow with 100 intercepters, sanctioned by the law, but Moscow also littered about the Soviet territory with another 10,000 to 12,000 intercepters and 18 battle management radars. So, in other words, we signed the treaty with Russia and contained within that treaty, and we will go over a few parts of that treaty here in a minute, contained within the treaty was a clause that said each side could have 100 intercept defense missiles.

The United States had 100 intercept defense missiles. The Russians had 12,100 under the mask of secrecy, and under the mask of compliance of the anti-ballistic Missile treaty they did not build just 100 intercepters they built 12,100 intercepters. We are such fools sometimes in this country. We owe it to ourselves to become alert about this issue.

Together, the Moscow defense and the vast homeland defense formed an interlocking system, nearly all of it not allowed by the treaty. How could the U.S. intelligence system overlook such an astounding violation? To answer this question is to comprehend another awful part of the treaty legacy. Those in this country who promoted the treaty succeeded in elevating it to theology and they prevailed upon virtually everyone in authority to accept no evidence that spoke to the existence of Soviet missile defense. We just intentionally, these arms control fanatics intentionally put a shield in front of their eyes and said, do not tell me about any Soviet missile defenses. I do not hear it. I do not want to see it. I do not want to talk about it. It is not happening.

In the meantime, 12,000 Russian intercepter missiles are put out there, and we comply with this treaty and we build 100. Washington knew about the 10,000 to 12,000 intercepters; in 1967 and 1968 had concluded that the intercepters that were not part of the Moscow system were anti-aircraft systems and that each of the radars was for early warning of a missile attack. No violations.

In 1991, however, a U.S. team visited one of the radars and found that the passing of data was not only for early warning but also for battle management. Violation.

This discovery, combined with earlier evidence which had been dismissed by the Central Intelligence Agency, leads to the clear conclusion that the 12,000 interceptors were dual use, lethal against ballistic missiles as well as aircraft. Several former top Soviet officials have confirmed the dual use in memoirs published this decade, but Washington has continued to ignore this massive violation of the treaty.

Today with the Cold War over, the ABM treaty is as dangerous as ever to the United States. Long gone, and this is so important, this is so important, long gone are the days where the only threat to the United States in the form of a capacity of a missile was from Russia. How foolish to forsake missile defense in the face of rising missile powers such as China, such as Iran, such as India, such as Iraq, such as North Korea, such as Pakistan.

Remember, the treaty is not between the United States and Iran. It is not between the United States and North Korea. It is between the United States and Russia and prevents the United States from defending itself against any other country, not just Russia but against North Korea, against Iran. So we cannot build a missile defense system because we are locked in under this treaty.

It is foolish. It is crazy.

Let us talk for a minute about what we have, what the Anti-Ballistic Missile treaty is and some of the articles that are important. I have to my left here, Mr. Speaker, a display board and I will go over a couple of things. Article number one, my red dot is there, this is the Anti-Ballistic Missile treaty. These are parts of it taken out. By the way, the treaty is not complicated. I would be happy to provide any of my colleagues a copy of it. It is three or four pages long. This is not a study in complexity. It is fairly simply written. It is easy to understand, and it is devastating in its contents.

Each party undertakes to limit Anti-Ballistic Missile systems and to adopt other measures in accordance with provisions of the treaty. Each party, again speaking only of the United States and of Russia, but it is applicable as to the defense against any other country, against the United States of America, each party agrees not to deploy Anti-Ballistic Missile defense systems for the defense of its territory. Each party undertakes not to deploy ABM systems for defense of the territory of its country, and not to provide a base for such defense and not to deploy ABM systems for defense of an individual region except as provided in article three of the treaty.

Right there, that paragraph right there, we are saying 27 years ago we will not provide any kind of missile defense system in this country.

Well, I cannot figure out the logic of it 27 years ago. I cannot figure out the logic of it 15 years ago and today I sure as heck cannot figure out the logic of this treaty, especially when we have numerous other countries that are developing this ballistic missile capability, over two dozen of them.

Let us skip here just for a minute. Each party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based or mobile-land based. This treaty, in my opinion, is a complete lock-out of any opportunity of the citizens of the United States of America to defend themselves.

Each party undertakes not to develop, test or deploy ABM launchers for launching more than one ABM intercepter missile at a time from each launcher, not to modify deployed launchers, et cetera, et cetera. You can see as this goes on, to enhance the assurance of effectiveness on the ABM systems and their components, each

party undertakes not to give missiles, launchers or radars, other than ABM intercepter missiles, ABM launchers or ABM radars capabilities to counter strategic basic missiles or their elements in flight trajectory and not to test them in an ABM mode. To assure the viability and effectiveness of this treaty, each party undertakes not to transfer to other states and not to deploy outside of its national territory ABM systems of the components limited by this treaty.

What I have brought out of the treaty here is the language that is fairly simple, easy to understand and the concept is clear. The concept is that the United States of America, based on the word of Russia, would not build a defensive missile system for itself. Know what? In America, we like to keep our word. We kept our word. In America, the United States did not deploy a missile defense system. We are here today, 1999, just a few short weeks away from the turn of the century, facing over two dozen countries with sophisticated missiles and the opportunity to increase the technology and the sophistication of their missiles, and we still continue to put a blindfold in front of our eyes.

As Henry Kissinger said, it is immoral, it is immoral, not to provide a defense system for our citizens.

Well, now some people say, all right, SCOTT, you have convinced us, this treaty is not a good idea. It prevents the United States from defending its own territory.

But are we locked into it? Well, the treaty is perpetual, meaning that it goes on as long as the parties agree, but the treaty also has language that allows us to abrogate the treaty, to get out of the treaty, legitimately. It is in the contract.

Again, language from the contract, article 15 of the Anti-Ballistic Missile treaty, ABM, this treaty shall be of unlimited duration. I spoke about that a moment ago. Each party shall, in exercising its national sovereignty, have the right to withdraw from this treaty if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interest.

Let us talk for a minute about extraordinary events. What are some extraordinary events? Well, there are several out there that we can look at. First of all, the other party that we made the agreement with, the Soviet Union, is no longer in existence. Now we have independent countries over there. So one party of the agreement is not even in existence as it was at the time we signed the agreement over 27 years ago.

Number two, the countries that have the missile capability 27 years ago, 20 years ago, even 15 years ago, the only country that was capable of bringing and delivering those missiles to Minnesota or to Montana or to New York or Los Angeles was Russia. So extraordinary event, now we have over two dozen countries that are building or are capable of delivering those missiles into the inside of the United States of America. That is a pretty extraordinary event, and that is exactly what that term is intended to mean in that treaty.

We ought to get out of this treaty. We ought to abrogate the treaty.

It shall give notice of its decision to the other party 6 months prior to withdrawal from this treaty. Such notice shall include a statement of the extraordinary events the notifying party regards as having jeopardized its supreme interests.

Supreme interests; think of the wording, supreme interests. Above all else, what should the United States of America be concerned about, above all else when it comes to this military? It is the defense of our people. We are not warmongers. Our country has lost many, many of our citizens and lives to protect other countries, some of them in recent years, and we know that in the future we will have another fight. But what are our supreme interests? It is an inherent supreme interest to protect yourself. Even individually, we have the concept of self-defense. That is what this is. It is self-defense for an entire nation, for the territory of the United States. That is a supreme interest and that is why we should, in this country, abrogate this treaty under the terms of the agreement and build a missile defense system for the United States.

□ 2230

Now what are some people thinking about this? You are not going to believe it, you are not going to believe it.

There are still, of course, supporters out there for this treaty, including the President.

Colleagues, we have an opportunity in another year and a half to have new leadership down there, and regardless of which party it comes from, although obviously I have some preference in that regards, whichever party it comes from, that new President, our new President, should seriously consider the terms of this and how it has handcuffed the United States in its own self-defense.

But I want you to know there are other people on the other side of this issue. What are their thoughts?

They want to go a step further. They actually do not think that the anti ballistic missile treaty is enough. They think we ought to do something called, and get ahold of this, and any of my colleagues out there that have constituents with any type of military conscience, get ahold of this:

They call it de-alerting, de-alerting, D-E-hyphen-A-L-E-R-T-I-N-G, de-alerting. Let me describe what de-alerting is. You are not going to believe it.

Now, having lulled the country to sleep on defenses against missiles, the same group of old-time arms controllers have come up with another idea called de-alerting which would take our nuclear forces off alert status. The aim would be to increase the amount of time necessary to launch a nuclear weapon from minutes to hours to even days.

De-alerting, a word so awkward only arms control bureaucrats could have thought of it, could take a number of forms, and suggestions being put forward are somewhat concerning. They include removing the integrated circuit boards from the ballistic missiles that we have and storing them hundreds of miles away.

What? As my colleagues know, what you do is you take the computer brains of the missiles we have, and you take them, and you store them several hundred miles away so that if, all of a sudden, we come under attack by another country and we decide to retaliate, we have got to go get the parts several hundred miles away, bring them to the missile and install them. Makes a lot of sense; does it not? Taking the warheads off the missiles or possibly the Minutemen ICBMs, welding shut, and get ahold of this, welding shut the missile hatches on some submarines and doubling the number of orders a hard-to-communicate-with submarine would have to receive before it can launch a missile.

Any one of these measures is the nuclear equivalent of giving a beat cop an unloaded gun and requiring he radio back to headquarters for bullets when he wants to use them. That is a pretty good example. I want to credit the Wall Street Journal for that example. What they are saying is what the new arms control people are aiming for is the essence of giving a police officer out on the street in a dangerous situation an unloaded gun and that if he wanted the bullets for his gun, he would have to call headquarters and request headquarters to get them out of the lockbox. He can run back, get the bullets and then come back to the scene.

That is what they are asking us to do with our military defense. We have got to change the direction that some of these people are going, and I think the majority of people in the United States believe, one, very strongly that we should not initiate a war unnecessarily; two, that our country has a fundamental obligation to its citizens, a fiduciary obligation to its citizens, and not only a fiduciary and fundamental obligation to its citizens, but a fiduciary and fundamental obligation to the future generations to provide a defense, a missile defense, for this country.

That is where we have to go with this. That is where we need to take it, and that is the direction we need to go. And can we do it with the anti ballistic missile treaty? We cannot do it. We need to get rid of it. It is not serving our best interests. It does not help us. It does us as much good on the floor as it does in action. I mean it is not helping. It hurts us. We should be entitled to defend ourselves with defensive missiles.

Let me wrap up just very briefly about the conclusion that I think we should all look at.

Number One, remember the facts, that there are over two dozen countries currently with the capability or building the capability to deliver missiles into the heart of the United States of America.

Number Two, that when this treaty was drafted, it was 27, over 27 years ago, and it was drafted between two countries, Russia and the United States. It was applicable. Even though the United States now faces multiple threats, this treaty prevents the United States not only from defending itself from the country of Russia, but defending itself from any of the other threats like they may have from North Korea, or Iran, or Iraq, or Pakistan, or India, et cetera, et cetera. Mr. Speaker, we could go through two dozen of those kinds of countries.

Number Three, we have the sophistication today to build an effective missile defensive system. We have the money today, and it should be a high priority. We have the money today to develop even better technology.

Now is the technology complicated? It is very complicated. Imagine a bullet coming several thousand miles per hour, and you have got to take it down with another bullet going several thousand miles per hour.

Now many of you may recall over the last couple of weeks we had a successful test where the bullet hit the bullet. It is a preliminary test, but the technology there is promising.

The next fact that I think is important is do not automatically, colleagues, do not automatically dismiss a space defense system.

Now in the days of Reagan when the Democrats ridiculed him, it was amazing, it was amazing in my opinion the shortsightedness that was allowed to continue with that ridicule. But today those days are passed. I am willing to go past that. But today we need to sit down as a team. We need to sit down and develop the kind of technology, not to start a war, not to pick on somebody, but to defend the supreme interests, and I use that as a quote out of the anti ballistic missile treaty, supreme interests, to defend the supreme interests of the United States of America. It is a race against time.

I have said several times during my comments this evening I have quoted Henry Kissinger. It is immoral, it is immoral not to provide the citizens of your country with a defensive missile system.

To my colleagues, when you leave the chambers tonight, you may not remember the facts. I hope you remember a little about this treaty and how and what it does to us. But more than anything else, I hope you remember those four or five words:

A race against time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Mr. HILL of Indiana, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, October 13.

Mr. BRYANT, for 5 minutes, October 6.

Mr. DUNCAN, for 5 minutes, today.

Mr. ISTOOK, for 5 minutes, today.

Mr. MILLER of Florida, for 5 minutes, October 12.

Mr. JONES of North Carolina, for 5 minutes, October 7.

Mr. SOUDER, for 5 minutes, today.

Mr. SHADEGG, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 2606. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 559. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building.''

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On September 29, 1999:

H.J. Res. 34. Congratulating and commending the Veterans of Foreign Wars.

On October 5, 1999:

H.R. 2084. Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

On October 6, 1999:

H.R. 2606. Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

ADJOURNMENT

Mr. McINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 38 minutes p.m.), the House adjourned until tomorrow, Thursday, October 7, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4665. A letter from the Director, Office of Regulatory Mangement and Information, Environmental Protection Agency, transmitting the Agency's final rule—Imazapic-Ammonium; Pesticide Tolerances for Emergency Exemptions [FRL–6382–3] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4666. A letter from the Secretary of Defense, transmitting the approved retirement of Lieutenant General David K. Heeber, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

4667. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—National Flood Insurance Programs; Procedures and Fees for Processing Map Changes (RIN: 3067–AC88) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

4668. A letter from the Acting Inspector General, Department of Defense, transmitting the FY 1998 Department of Defense Superfund Financial Transactions; to the Committee on Commerce.

4669. 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; Indiana [IN96–2; FRL–6452–6] received October 1, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4670. A letter from the Secretary of Energy, transmitting a legislative proposal to amend certain provisions of the Weather Assistance Program for Low-Incomed Persons; to the Committee on Commerce.

4671. A letter from the Auditor, District of Columbia, transmitting A copy of a report entitled, ''Audit of the People's Counsel Agency Fund for Fiscal Year 1998,'' pursuant to D.C. Code section 47–117(d); to the Committee on Government Reform.

4672. 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 and Deletions from the Procurement List—received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4673. A letter from the Comptroller General of the United States, General Accounting Office, transmitting the Research Notification System through September 7, 1999; to the Committee on Government Reform.

4674. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled ''Observed Weakness in the District's Early Out Retirement Incentive Program''; to the Committee on Government Reform.

4675. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled ''Auditor's Review of Unauthorized Transactions Pertaining to ANC 1A''; to the Committee on Government Reform.

4676. A letter from the Office of the District of Columbia, Auditor, transmitting a

copy of a report entitled, ''Examination of the People's Counsel Agency for Fiscal Year 1997''; to the Committee on Government Reform.

4677. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Amendment by Mexico to Appendix III Listing of Bigleaf Mahogany under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (RIN: 1018–AF58) received June 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4678. A letter from the Commissioner, Department of the Interior, transmitting draft legislation to authorize not new feasibility investigations for three water resource development projects within the Pacific Northwest; to the Committee on Resources.

4679. A letter from the Commissioner, Department of the Interior, transmitting a draft bill ''To authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982''; to the Committee on Resources.

4680. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 092499J] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4681. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka MACKerel in the Central Aleutian Islands [Docket No. 990304063–9063–01; I.D. 092399E] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4682. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 091799B] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4683. A letter from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Pacific Halibut Fisheries; Local Area Mangement Plan for the Halibut Fishery in Sitka Sound [Docket No. 990416100–9256–02; I.D. 031999C] (RIN: 0648–AL18) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4684. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska [Docket No. 990304062–9062–01; I.D. 092399A] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4685. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Fixed Gear Sablefish Mop-Up [DOcket No. 981231333–8333–01; I.D. 091399D] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4686. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic And Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Mothership Component in the Bering Sea Subarea [Docket No. 990304063–9063–01; I.D. 092499N] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4687. A letter from the Deputy General Counsel, FBI, Department of Justice, transmitting the Department's final rule—Federal Bureau of Investigation, Criminal Justice Information Services Division Systems and Procedures [AG Order No. 2258–99] (RIN: 1105–AA63) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4688. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments [USCG–1999–6216] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4689. A letter from the Chief, Office of Regulations and Administrative Law, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Mile 94.0 to Mile 96.0, Lower Mississippi River, Above Head of Passes [COTP New Orleans, LA Regulation 99–022] (RIN: 2115–AA97) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4690. A letter from the Chief, Office of Regualtions and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Tall Stacks 1999 Ohio River Mile 467.0–475.0, Cincinnati, OH [CGD08–99–052] (RIN: 2115–AE46) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4691. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Wedding on the Lady Windridge Fireworks, New York Harbor, Upper Bay [CGD01–99–163] (RIN: 2115–AA97) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4692. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Noise Transition Regulations; Approach of Final Compliance Date—received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4693. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney PW2000 Series Turbofan Engines [Docket No. 99–NE–02–AD; Amendment 39–11333; AD 99–20–03] (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4694. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whittney JT9D–7R4 Series Turbofan Engines [Docket No. 99–NE–06–AD; Amendment 39–11334; AD 99–20–04] (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4695. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 98–NM–270–AD; Amendment 39–11335; AD 99–20–05] (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4696. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes [Docket No. 99–NM–48–AD; Amendment 39–11336; AD 99–20–06] (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4697. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Pikeville, KY [Airspace Docket No. 99–ASO–13] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4698. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Center TX [Airspace Docket No. 99–ASW–14] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4699. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—High Density Airports; Allocation of Slots [Docket No. FAA–1999–4971, Amendment No. 93–78] (RIN: 2120–AG50) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4700. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes (RIN: 2120–AA64) received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4701. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29753; Amdt. No. 1950] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4702. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach; Miscellaneous Amendments [Docket No. 29754; Amt. No. 1951] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4703. A letter from the Admiral, U.S. Coast Guard Commandant, Department of Transportation, transmitting a report on the Coast Guard's findings the Chicago area search and rescue standards and procedures; to the Committee on Transportation and Infrastructure.

4704. A letter from the Principal Deputy Assistant Secretary for Congressional Affairs, Department of Veterans Affairs, transmitting a draft bill to authorize major facility projects and lease programs for Fiscal Year 2000; to the Committee on Veterans' Affairs.

4705. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Section 846 Discount Factors for 1999 [Revenue Procedure 99–36] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4706. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Section 832 Discount Factors for 1999 [Revenue Procedure 99–37] received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4707. A letter from the Chief, Regulations Service, Internal Revenue Service, transmitting the Service's final rule—Mutual Insurance, Inc. v. Commissioner—received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4708. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Medical Savings Accounts—Number—received October 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4709. A letter from the Secretary of Health and Human Services, transmitting the notification you that Department of Health and Human Services is alloting emergency funds to be made available to the State of North Carolina; jointly to the Committees on Commerce and Education and the Workforce.

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. BURTON: Committee on Government Reform. H.R. 1788. A bill to deny Federal public benefits to individuals who participated in Nazi persecution; with an amendment (Rept. 106–321, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bill be placed upon the Corrections Calendar:

H.R. 576. A bill to amend title 4, United States Code, to add the Martin Luther King, Jr. holiday to the list of days on which the flag should especially be displayed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ROGAN (for himself, Mr. BOUCHER, Mr. COBLE, and Mr. GOODLATTE):

H.R. 3028. A bill to amend certain trademark laws to prevent the misappropriation of marks; to the Committee on the Judiciary.

By Ms. DUNN (for herself and Mr. MCDERMOTT):

H.R. 3029. A bill to amend title XVIII of the Social Security Act to increase Medicare payment to skilled nursing facilities that have a significant proportion of residents with AIDS; to the Committee on Ways and Means, 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. HINCHEY:

H.R. 3030. A bill to designate the facility of the United States Postal Service located at 757 Warren Road in Ithaca, New York, as the ''Matthew F. McHugh Post Office''; to the Committee on Government Reform.

By Mr. LEWIS of Georgia (for himself, Mr. HILLIARD, Mr. FROST, Mr. RUSH, Mr. PAYNE, Mr. ENGEL, Mr. THOMPSON of Mississippi, Ms. KILPATRICK, Mr. DAVIS of Illinois, Mr. TOWNS, Mr. CLYBURN, Mr. CLAY, Mr. BISHOP, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BROWN of Florida, and Mrs. MEEK of Florida):

H.R. 3031. A bill to redesignate the Federal building located at 935 Pennsylvania Avenue, NW, in Washington, DC, as the ''Frank M. JOHNSON Federal Building''; to the Committee on Transportation and Infrastructure.

By Mr. MARKEY (for himself, Mr. GEORGE MILLER of California, Mr. HOEFFEL, Mr. WEXLER, Mr. KUCINICH, Mrs. MALONEY of New York, Mr. WEINER, Ms. DELAURO, Mr. NEAL of Massachusetts, Mr. LIPINSKI, and Mr. WAXMAN):

H.R. 3032. A bill to restore the jurisdiction of the Consumer Product Safety Commission over amusement park rides which are at a fixed site, and for other purposes; to the Committee on Commerce.

By Ms. ROS-LEHTINEN (for herself, Mrs. MEEK of Florida, Mr. SHAW, Mr. DIAZ-BALART, and Mr. HASTINGS of Florida):

H.R. 3033. A bill to direct the Secretary of the Interior to make certain adjustments to the boundaries of Biscayne National Park in the State of Florida, and for other purposes; to the Committee on Resources.

By Mr. ROYCE (for himself and Mr. DUNCAN):

H.R. 3034. A bill to amend the Internal Revenue Code of 1986 to allow unused benefits from cafeteria plans to be carried over into later years and used for health care reimbursement rollover accounts and certain other plans, arrangements, or accounts; to the Committee on Ways and Means.

By Mr. MILLER of Florida (for himself and Mrs. MALONEY of New York):

H. Con. Res. 193. Concurrent resolution expressing the support of Congress for activities to increase public participation in the decennial census; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

259. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of The Mariana Islands, relative to House Resolution No. 11–183 memorializing the U.S. House Speaker, Chairman Young, U.S. House Committee on Resources, the President, Senator MURKOWSKI, Secretary of the Interior, CNMI Governor and CNMI Senate President to permit the U.S. House Committee on Resources to bring to justice all those who may have taken part in any illegal political activities aimed against the CNMI's ability to control its own immigration and minimum wage policies as provided under the Convenant; to the Committee on Resources.

260. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution 16 memorializing the President and Congress of the United States to maintain the existing restrictions on trucks from Mexico and other foreign nations entering California and to continue efforts to ensure full compliance by the owners and drivers of those trucks with all the highway safety, environmental, and drug enforcement laws; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 126: Mrs. MALONEY of New York and Mr. FORBES.

H.R. 274: Mr. MALONEY of Connecticut.

H.R. 325: Mr. BISHOP and Mr. HOYER.

H.R. 353: Mr. WU, Mr. ETHERIDGE, Mr. UDALL of Colorado, Mr. BURR of North Carolina, Mr. COLLINS, and Mrs. LOWEY.

H.R. 355: Mr. TALENT and Mr. SANFORD.

H.R. 372: Mr. COYNE, Mr. MORAN of Virginia, and Mr. HOLT.

H.R. 405: Ms. WOOLSEY.

H.R. 460: Mr. EVANS.

H.R. 488: Mr. MORAN of Virginia.

H.R. 637: Mr. STRICKLAND.

H.R. 742: Mr. HOLDEN.

H.R. 773: Mr. GUTIERREZ and Mr. HINOJOSA.

H.R. 780: Mr. LAFALCE.

H.R. 802: Mr. TOOMEY and Mr. GOODE.

H.R. 872: Mr. HASTINGS of Washington.

H.R. 1057: Mr. BERMAN.

H.R. 1095: Mr. SANDLIN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GREENWOOD, Mr. PASTOR, Mr. SHAYS, and Ms. ROS-LEHTINEN.

H.R. 1195: Mr. SOUDER, Mr. VITTER, Mr. RYUN of Kansas, and Mr. KENNEDY of Rhode Island.

H.R. 1248: Mr. PRICE of North Carolina.

H.R. 1322: Ms. ESHOO.

H.R. 1344: Mr. SWEENEY.

H.R. 1456: Mr. BILBRAY.

H.R. 1459: Mr. WHITFIELD.

H.R. 1485: Mr. EVANS.

H.R. 1532: Mr. LUTHER.

H.R. 1598: Mr. ISTOOK, Mr. SMITH of New Jersey, and Mr. HILL of Montana.

H.R. 1835: Mr. MCHUGH, Mr. BURTON of Indiana, Mr. GOODLING, Mr. DELAY, and Mr. TANCREDO.

H.R. 1887: Mr. BILBRAY.

H.R. 1910: Mrs. WILSON.

H.R. 1977: Mr. BENTSEN.

H.R. 2059: Mr. TRAFICANT.

H.R. 2244: Mr. TIAHRT and Mr. VITTER.

H.R. 2260: Mr. REYNOLDS.

H.R. 2325: Mr. DAVIS of Florida.

H.R. 2362: Mr. NEY, Mr. HAYES, and Mr. PEASE.

H.R. 2372: Mrs. NORTHUP, Mr. BRADY of Texas, Mr. PETERSON of Pennsylvania, Mr. CALVERT, Mr. FRANKS of New Jersey, Mr. LOBIONDO, Mr. BOEHNER, and Mr. HAYES.

H.R. 2418: Mr. TANNER, Mr. ROGERS, and Mr. FRELINGHUYSEN.

H.R. 2446: Mr. MARTINEZ and Mr. NADLER.

H.R. 2492: Mr. THOMPSON of Mississippi, Mr. GILMAN, and Mrs. LOWEY.

H.R. 2494: Mr. HILL of Montana and Mr. LEWIS of Kentucky.

H.R. 2554: Mr. PAYNE and Mr. HEFLEY.

H.R. 2571: Mr. GARY MILLER of California.

H.R. 2631: Mr. SISISKY.

H.R. 2673: Mrs. LOWEY.

H.R. 2726: Mr. SCHAFFER.

H.R. 2733: Mr. BURTON of Indiana.

H.R. 2745: Mr. FORBES.

H.R. 2746: Mr. HOUGHTON and Mr. MCNULTY.

H.R. 2757: Mr. CANADY of Florida, Mr. RADANOVICH, Mr. EHLERS, and Mr. LAHOOD.

H.R. 2776: Ms. ROYBAL-ALLARD, Mr. HINOJOSA, and Mr. PALLONE.

H.R. 2785: Mr. FRANKS of New Jersey.

H.R. 2790: Mr. GEKAS.

H.R. 2807: Mr. THOMPSON of Mississippi and Ms. NORTON.

H.R. 2814: Mr. GALLEGLY and Mr. CUNNINGHAM.

H.R. 2825: Mr. NEY.

H.R. 2882: Mr. DEFAZIO.

H.R. 2892: Mrs. MORELLA, Ms. STABENOW, Mrs. KELLY, and Ms. ESHOO.

H.R. 2909: Mr. WAMP, Mr. DEFAZIO, Ms. PRYCE of Ohio, Mr. WU, and Mr. WEXLER.

H.R. 2911: Mr. PHELPS and Mrs. EMERSON.

H.R. 2915: Ms. PELOSI, Mrs. THURMAN, Mr. FROST, Mr. LUTHER, Mr. TIERNEY, and Ms. NORTON.

H.R. 2971: Mr. WELDON of Florida.

H.R. 2980: Mr. THOMPSON of Mississippi and Mrs. NAPOLITANO.

H.R. 2993: Mr. JOHN.

H.R. 3012: Mr. ROHRABACHER, Mr. SUNUNU, and Mr. METCALF.

H.J. Res. 25: Mr. VITTER.

H.J. Res. 53: Mr. KASICH, Mr. LOBIONDO, Mr. MILLER of Florida, Mr. RYUN of Kansas, and Mr. SIMPSON.

H.J. Res. 55: Mr. SWEENEY.

H. Con. Res. 51: Mr. TANCREDO and Mr. ROYCE.

H. Con. Res. 133: Mrs. LOWEY.

H. Con. Res. 188: Mr. HOLDEN, Mr. BROWN of Ohio, Ms. PELOSI, Mr. CUNNINGHAM, Mr. ENGEL, Mr. HORN, Mr. PAYNE, Mr. MCGOVERN, Mr. GUTIERREZ, Mr. BEREUTER, Mr. WYNN, Mr. BAIRD, Mr. HINCHEY, Mr. TOWNS, Ms. KAPTUR, Mr. MCDERMOTT, Mr. SANDLIN, Ms. ROS-LEHTINEN, Mr. ANDREWS, Mr. MCNULTY, Mr. CAPUANO, Mr. MALONEY of Connecticut, Mrs. KELLY, Mr. ROYCE, Ms. NORTON, Mr. ENGLISH, and Mr. GILMAN.

H. Res. 224: Mr. HILL of Montana.

H. Res. 298: Mrs. MCCARTHY of New York, Mr. CROWLEY, Mr. GEORGE MILLER of California, Mr. SHERWOOD, Mr. RADANOVICH, Mr. CLAY, Mr. TOWNS, Mr. PASTOR, Mr. KLECZKA, and Mr. NADLER.

H. Res. 303: Mr. SMITH of Michigan and Mr. WELDON of Florida.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

62. The SPEAKER presented a petition of Omaha City Council, relative to Resolution No. 2507 petitioning the President of the United States, Secretary of State, Majority Leader of the United States Senate, Speaker of the United States Senate, Speaker of the United States House of Representatives, the Ambassador of Indonesia to the United States, and the U.S. Ambassador to the United Nations to support independence of East Timor; to the Committee on International Relations.

63. Also, a petition of Township of Freehold, New Jersey, relative to Resolution 99–100 petitioning the the Congress to support the Protection of Religious Liberty and to oppose H.R. 1691; to the Committee on the Judiciary.

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PROCEEDINGS AND DEBATES OF THE *106th* CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, WEDNESDAY, OCTOBER 6, 1999 *No. 134*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord, God, speak to us so that what we speak may have the ring of reality and the tenor of truth.

You have granted the Senators the gift of words. May they use this gift wisely today. Help them to speak words that inspire and instruct. Keep them from glibness—from easy words that change little—or from harsh words that cause discord. Enable them to say what they mean and then mean what they say, so that they are able to stand by their words with integrity. And since the world listens so carefully to what is said here in this Chamber, guide the Senators to differ without denigration and communicate without condemnation. May they judge each other's ideas but never each other's values. In this way, may the Senate exemplify to the world how to maintain unity in diversity and the bond of patriotism in the search for Your best for America. Dear God, help us to listen to You and to each other. In Your all-powerful name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHUCK HAGEL, a Senator from the State of Nebraska, 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.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Pennsylvania.

RECOGNITIONS

Mr. SPECTER. Mr. President, permit me to comment about how good it is to have Reverend Ogilvie back with us, looking so well after his recent bout with the doctors and the hospital, one which he and I share. It is nice to have Reverend Ogilvie back.

Let me compliment our distinguished President pro tempore for opening the Senate this morning so hale and hardy.

The PRESIDENT pro tempore. I thank the Senator very much.

SCHEDULE

Mr. SPECTER. On behalf of the leader, I have been asked to announce that the Senate will resume consideration of the pending Nickles amendment on the Labor-HHS bill regarding the Social Security trust fund. It is hoped that Senators who have filed amendments will work with the bill managers. What we propose to do is continue to alternate, and we are going to seek time agreements of 30 minutes equally divided so that we can move ahead and complete the bill. We have contentious amendments which are pending on both sides. We are working on the Republican side to try to have these amendments considered with very short time agreements, or reasonably short time agreements so that we can proceed.

We have the obligation to finish this bill, or at least the expectation of finishing this bill by the close of business tomorrow. There are dinners both Wednesday evening, this evening, and tomorrow evening which will keep our sessions not too long unless we establish a window, which we will have to do. And if a window is established, that means very late night sessions if we are to recess from 6:30, 7 o'clock, 8:30 or 9 o'clock. That is something to be avoided. We have culled down the amendments, and we think we are in a position to move ahead very promptly.

The leader has asked me also to announce that the Senate may consider conference reports to accompany the Agriculture appropriations bill and any other conference reports available during this week's session of the Senate.

Until one or two other Senators arrive, I would like to take a moment or two to comment about another matter of business, a very important matter, and that is the Comprehensive Test Ban Treaty.

COMPREHENSIVE TEST BAN TREATY

Mr. SPECTER. Mr. President, the President invited a number of Senators, both Democrats and Republicans, to the White House last night for dinner, including the distinguished Senator from Nebraska, who is now presiding. I had expressed a view publicly before the dinner began that I thought the vote on the Comprehensive Test Ban Treaty should be deferred; it should not be held on Tuesday. I have stated that position because it is plain that there are not enough votes in the Senate to pass the treaty. I favor the treaty. I said so publicly some time ago. I think it is also not timely to take up the treaty on the existing schedule because of the complexity of the issue.

Yesterday, the Armed Services Committee held 5 hours of hearings. I attended part of them. The subject matter is very complicated. It is my judgment that Senators are not really prepared to vote on the matter and that the vote may take on partisan overtones, political overtones, party partisan overtones, which I think would be very undesirable.

It has been reported publicly that all 45 Democrats are in favor of the treaty; that there are only a very few Republicans who are in favor of the treaty, and that many Senators on both sides have really not had an opportunity to study the treaty in depth to have positions which might lead some to disagree with the party position.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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It is my thinking that it would be calamitous—a very strong word, but I think that is the right word—if the Senate were to reject the Comprehensive Test Ban Treaty. At the present time around the world, many eyebrows are raised because the Senate has not ratified the treaty. But if the Senate were to reject the treaty, then it would be highly publicized worldwide. It would be an open excuse for countries such as India and Pakistan to continue nuclear testing, which I think is very undesirable, destabilizing that area of the world, and give an excuse for rogue nations such as Iran, Iraq, Libya, and other rogue nations to test, and it would be very undesirable.

It is a complicated issue because our distinguished majority leader has scheduled the vote under a unanimous consent agreement with the minority leader after very substantial pressures have been building up with many floor statements demanding a vote.

The majority leader gave them what they asked for, and it was agreed to. It is not an easy matter to have that unanimous consent agreement vitiated. Any Senator can object to the vote. We will go ahead and schedule it. The administration has expressed the view it does not want to make a commitment to have no vote during the year 2000. The leader has propounded a substitute unanimous consent agreement, as I understand it—I wasn't on the floor at the time—which would vitiate the unanimous consent agreement on the condition that no vote be held in the year 2000.

The administration takes the position if they were to agree to that, or go along with it, that it would look as if they were backing off the treaty and it would be complicated for other world leaders as to how the administration would explain that kind of a position when we were pressing other nations to stop nuclear testing and to end proliferation.

It may be the matter is really for the Senate without the administration. We set our own schedule. Perhaps a group of Senators representing both Democrats and Republicans could take the responsibility to oppose a vote during the year 2000.

Another idea which occurred to me this morning was to have a vote in the year 2000 but have it after the election so the treaty does not become embroiled in Presidential politics. One of the key Democrats expressed the view that he would oppose considering the treaty in the year 2000 because it would become embroiled in Presidential politics and surely lose.

If a debate were to be scheduled by mid-November and then a vote held in November that could accommodate the interests of not having it involved in a Presidential campaign and still give President Clinton an opportunity to have the treaty decided upon during his tenure as President with him being in the position to advocate.

I make these comments because I think with the schedule for debate on Friday and then again on Tuesday and a scheduled vote on Tuesday that time is of the essence—in this case very much the essence, not unlike that expression which has arisen in real estate transactions—that there are very serious international implications.

I know many Senators will be following up on the dinner meeting of last night by communicating with our distinguished majority leader and by communicating with people on both sides to see if we can accommodate all of the competing interests.

We are facing one of the most important votes of our era. It will set back arms control and nonproliferation very substantially if this treaty goes down. If after study and deliberation and an adequate time for debate the treaty is rejected, so be it. That is constitutional process. But to have it go down with the kinds of pressures to schedule it, and a schedule which has been entered into knowingly with leaders on both sides having unanimous consent agreements all the time, and any suggestion that there is any inappropriate conduct on anybody's part is totally unfounded. That is the way we operate. But, as I view it, it is an unwise course for the reasons I have stated.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1650, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1650) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

Pending:

Nickles amendment No. 1851, to protect Social Security surpluses.

Nickles amendment No. 1889 (to amendment No. 1851), to protect Social Security surpluses.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have some housekeeping.

Mr. SPECTER. Mr. President, I still have the floor.

I ask my distinguished colleague, the assistant majority leader, if we could propound a unanimous consent request to consider the pending sense-of-the-Senate resolution.

Mr. REID. Mr. President, I say to my friend, the manager of the bill, we are going to have to do that now. It would be appropriate if the debate started. We are in the process of checking to see who wants to speak against the pending amendment.

I say in response to my friend's statement earlier that we want to move this along. The staff has worked very well the last several days since we had our break. We are down now to about 16 amendments, give or take a few, both Democratic and Republican amendments. We have on our side agreed. We have time agreements on most of ours—not all of them but most of them. I think we can move forward on that basis.

I also say to my friend that I saw the Senator from Pennsylvania coming into the White House as I was leaving last night. I was invited down for a meeting. I should say to my friend that I had orange juice and some nuts. I see that he was served dinner. That is something I have to check into.

Mr. SPECTER. If the Senator and I had been there at the same time, we could have solved this problem.

Mr. REID. Over dinner.

Mr. SPECTER. The fact that I was arriving as the Senator from Nevada was departing led to the inability to solve it. If we had been there together, we would have had a very abbreviated meeting. We could have concentrated on dinner instead of debate.

Mr. REID. I think maybe the Senator's great skills in debates may have had something to do with the Senator being served dinner and me getting by with just orange juice and a bowl of nuts.

Anyway, I think we should proceed on this pending amendment and move forward with it. If the Senator from Pennsylvania has someone speaking on it, we will try to get people lined up to speak against it and try to move along as quickly as possible.

We called some of our people to come over and offer amendments. We could set that aside and move on to some of these amendments on which we have time limits.

Mr. SPECTER. Mr. President, I would be agreeable to setting the amendment aside. I have secured the agreement of the proponent of the sense-of-the-Senate resolution, Senator NICKLES, to 30 minutes equally divided. It is a sense of the Senate. It does not have the import of some of the other amendments which involve real money and not confederate money. The next amendment would come from the other side of the aisle. If somebody is ready to offer an amendment, I would be agreeable to setting this amendment aside until we can reach a time agreement.

Let me yield now to my colleague from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, it is my understanding that several from our side of the aisle are coming to speak on this, and Senator NICKLES will return at 10.

While they are assembling their amendments, we might talk on this for the next few minutes and then get a time agreement with Senator NICKLES and I for 30 minutes equally divided. He has indicated he will do that. We have a few minutes before they are ready to present their amendment. We might continue to discuss this amendment.

Mr. REID. I think that would be appropriate.

Mr. SPECTER. Mr. President, may I inquire of my distinguished colleague from Nevada whether an amendment is ready now or when an amendment will be ready to be offered.

Mr. REID. Mr. President, we have two Senators who are on their way. In Senate language, ''on their way'' doesn't mean they are walking into the building. They have indicated to us they are on their way. As soon as they are through the door, I will let the Senate know and we can get a time agreement on the amendment.

Mr. SPECTER. Mr. President, if I might say, for the information of all Senators who may be watching on television, we are very anxious to sort of queue up so we can move along with dispatch.

If there are Senators on our side of the aisle who wish to speak on this sense of the Senate, it would be my request that they come over promptly so they can speak—the same thing about Members on Senator REID's side of the aisle. If somebody has an amendment to offer, we can move this bill along and stack those votes and not have to have a late night session. The leader did talk about a window. We haven't had a window for a while. Windows which bring us back here late in the evening hours are not very much appreciated.

Mr. REID. Mr. President, I also say, if my friend will yield, to elaborate on his statement, Friday is fast approaching and people have things they want to do on Friday. Friday is scheduled now, and it may be vitiated based on the statement the Senator from Pennsylvania has made. The way the unanimous consent order is now in place, we are going to start debate on the Comprehensive Test Ban Treaty on Friday. There are a lot of people who have planned their schedules around that. If that is taken off for some reason, I am sure the majority leader will ask us to complete this bill, if it is not completed before Thursday.

I say to my friend that we need to move forward on this bill, if anybody has any anticipation of going back to their States on Friday.

Mr. SPECTER. Mr. President, that was well said.

Mr. President, may I yield to my colleague from Georgia?

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I am going to speak for a moment or two about the pending business, which is the Nickles amendment numbered 1851. It is a sense of the Senate and is quite short and very clear.

It is the sense of the Senate that Congress should ensure that fiscal year 2000 appropriations measures do not result in an on-budget deficit, excluding surpluses generated by the Social Security trust fund.

Basically, what he is saying is that if for any reason in our budgetary exercise we find ourselves having dipped into the Social Security receipts, go beyond non-Social Security receipts, there would be a sequester for across-the-board cuts to replenish it. The response from the other side is interesting because, of course, the President and the other side have said they don't want to use Social Security receipts and then they say current budgetary activities, depending on whose numbers you read, may have already done so.

I point out, it is not over until it is over. There has been no concluding action on our budget decisions. What this sense-of-the-Senate amendment states is ''if,'' depending on how much, it would require across-the-board cuts to protect Social Security—pretty clean and very simple. That is the sense-of-the-Senate resolution from Senator NICKLES of Oklahoma, amendment No. 1851. It is simple. It says when we finish all of our budget activities, finish all the conferences, and have everything concluded, if we have gone beyond other surpluses and dipped into Social Security, they will be replenished by an across-the-board cut.

The other side last week was imploring it is already maybe at $19 billion. It depends on whose numbers you look at. That is a 5-percent across-the-board cut. We are not there, is the point. If the budgeteers and appropriators are neglectful and we get into Social Security at that level, it will be appropriate there be a 5-percent across-the-board cut. Everybody has agreed—the President, the leadership on the other side and on our side—we should not use Social Security receipts to deal with this year's budget.

I think Senator NICKLES from Oklahoma offers a rational concept for assuring the American people—assuring those individuals who are concerned about Social Security, whether they are using Social Security or about to use Social Security—that this Congress is not going to use those to deal with the current expenditures.

Mr. SPECTER. May I interrupt my distinguished colleague to propound a unanimous consent agreement.

Mr. COVERDELL. I yield the floor.

Mr. SPECTER. I ask unanimous consent, and it has been cleared with Senator REID, that the pending amendment be subject to 1 hour of debate with time equally divided.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

Mr. SPECTER. I yield time to the Senator from Georgia.

Mr. COVERDELL. Mr. President, Senator NICKLES should be here shortly to speak on his own behalf. Basically, he outlined a very simple premise and a very important principle, that we are not going to use Social Security for new spending; we are going to protect Social Security receipts.

He has offered a concept by which that would be done. Its impact would depend on the amount to which appropriators and the Congress, through their budgetary practices, had used those receipts. They have two options: They can go back to the conference committee reports and make sure the spending does not get into Social Security, in which case this has no import. But if they do, if it is $5 billion, that will be a 1-percent across-the-board cut; if it is $20 billion, it will be about 5.

It is up to the conscience, work, and dedication of our appropriators to resolve.

He outlines early in the process a premise which I think is sound: if we get into Social Security, we will recover.

I yield the floor.

Mr. SPECTER. How much time does my distinguished colleague from New Hampshire desire?

Mr. GREGG. Ten minutes.

Mr. SPECTER. I yield 10 minutes to Senator GREGG.

Mr. GREGG. Mr. President, I rise in support of the Nickles amendment of which I am a cosponsor along with a number of other Members of the Senate.

This proposal addresses one of the underlying political debates we are confronting today in trying to reach conclusion on our entire budget, which is the manner in which we should handle Social Security surplus. It is a key element of how we can resolve this matter and resolve it in a way that fulfills at least the stated goals of the various parties.

We have heard the President say on a number of occasions he wants to protect the Social Security surplus and preserve it for Social Security. It has been our position, as the Republican membership of this Senate, that we should do exactly that. In fact, we have offered time and again something called a lockbox which would essentially guarantee all Social Security surplus be held independent of any other spending and would not be available for any other activities of the Government but, rather, be reserved for the purposes of paying down the debt and being retained in the Social Security trust fund as debt instruments.

Unfortunately, as we have moved down the road to address the operating budget of the Federal Government, it has been clear the administration wants to have it both ways: They want to say, on one side, protect the Social Security trust fund, and specifically the surplus which is now being generated by the Social Security accounts; but, on the other side, they want to propose a large amount of new spending which would inevitably lead to using up some portion of the surplus of the Social Security trust fund.

Senator NICKLES, other Members of this Senate, and I have come forward with this proposal which is a sense of the Senate and therefore isn't binding. Hopefully at some point it will be put into binding language. It says under no circumstances will Social Security

trust fund dollars or the surplus now being generated by the Social Security taxes being paid be used to operate the general functions of the Federal Government, and that we should have a mechanism to guarantee what is known as a sequester which is a system of saying, if ever we should spend a dollar or it is looking as if we are about to spend a dollar of Social Security surplus funds, there will be a sequester in spending of the general fund, the general operating accounts of the Federal Government, the discretionary accounts of the Federal Government, the ''sequester'' meaning those accounts would be reduced to the extent necessary in order to be sure no Social Security surplus funds would be used.

This, of course, is the proper way to proceed because it sets in place a mechanism which makes it clear, and which makes it absolutely a sure thing, that there will be not an invasion of Social Security surplus funds.

To step back a second, let's understand what the Social Security surplus funds are. We all pay Social Security taxes on our earnings. They are called FICA taxes. Those taxes go into what is known as the Social Security trust fund. That trust fund is used to pay for the operation of the Social Security system.

The Social Security system for many years ran a deficit where the taxes being raised were not enough to support the money being paid to support the benefits, or it was about to run a deficit. Therefore, we changed the tax law and we changed the structure of the benefits back in 1983 so the system was put into a solvent situation.

As the baby boom generation grew in its earning capacity and the older generations preceding, the World War II generations, retired, we found the earning capacity of the baby boom generation was so great it was generating a huge surplus. In other words, there was more money going into the Social Security trust fund than was needed to support the people on Social Security.

For a number of years, because the operating accounts of the Federal Government, the day-to-day operation accounts independent of Social Security, were running a deficit, the Social Security trust fund was borrowed from to mask the deficit of the operating accounts of the Federal Government. We ended up with the Federal Government day-to-day operations, whether defense, education, or social services, being supported by the Social Security taxes which were being paid into the Social Security trust fund.

With the occurrence of the good economy and a strict fiscal discipline put in place by this Republican Congress, we now are in a position where we are running what is known as a real surplus. In other words, the amount of money we are taking in in order to operate the Federal Government in its day-to-day activities is about the same, and it is starting to grow to the point where it is actually exceeding the amount of money necessary to operate the Federal Government. So things such as education, defense, and general social services can be paid for by the general revenues of the Federal Government. It is no longer necessary for us to invade the Social Security trust fund in any way to operate the Federal Government.

Yet there is still some pressure, because there is this surplus running up in the Social Security trust fund, to say we can spend a little more on the operations side of the Federal Government—a little more for defense, a little more for education. All we have to do is take it out of the Social Security trust fund to pay for it.

That is what this debate is about; there are many of us who believe that is not the proper way to do it. The money that goes into the Social Security trust fund should be reserved for the purposes of preserving and protecting Social Security. Some of us have even gone so far as to put forward major pieces of legislation, bipartisan in nature, which would structure a program to make the Social Security system solvent not only for today but for the next hundred years.

In fact, there is a bill that would do exactly that which I cosponsor with Senator BREAUX, Senator GRASSLEY, and a number of other Members, Senator KERREY, BOB KERREY from Nebraska. It would make the Social Security system solvent for years. It would use this surplus in the Social Security trust fund to accomplish that solvency.

That is really another story. But it points out it is important the Social Security surplus is preserved for Social Security, the preservation of Social Security, and it is not used to operate the general government.

In order to keep Social Security solvent, in order to keep the surplus from the day-to-day operation of the Federal Government, we have put forward this sense of the Senate. As I mentioned, what the sense of the Senate essentially says is, if it occurs that the day-to-day operation of the Federal Government—for national defense, for education, for general social activities—should exceed the operating income of the general government—income taxes, business taxes, various excise taxes we receive—if it should exceed those incomes, then rather than go into the Social Security trust fund to pay for that deficit, we will reduce the spending of the Federal Government to the point where the incomes of the Federal Government meet the expenses of the Federal Government on the operating side of the ledger and the Social Security surplus will, therefore, be kept protected and preserved for the purpose, I hope, of putting in place a large, comprehensive plan I just described to you, that Senators BREAUX, KERREY, and GRASSLEY, and I have introduced.

This proposal is a sense of the Senate. It is not even actually a legislative event. I hope someday it will be. But this legislation simply states that the Senate is not going to tolerate the invasion of the Social Security trust fund for purposes of operating the day-to-day functioning of the Government of the United States; that we are going to expect the Government of the United States to meet its day-to-day operating expenses from the traditional resources that are available to it for operations and not from the income that comes from those people who are paying Social Security taxes.

Rather than just making that as a statement, we are also taking it a step further, saying we shall create a sequester mechanism whereby there will be an actual reduction in spending on the day-to-day operations side of the account should there ever occur a situation where the Social Security trust fund was going to be used in order to pay for day-to-day operations. Thus, we create this clear, enforceable protection for Social Security and for our Social Security trust fund.

It is a very simple idea. It is a very appropriate idea. Most important, it is an idea that is absolutely consistent with everything we have heard from the White House and from the other side of the aisle as it has put forward its concepts of how we should protect and preserve the Social Security trust fund. Essentially, Senator NICKLES, I, and the other Senators who support this legislation, most of whom I guess are Republican, are really doing the work of the administration.

We know, for that reason, we are going to be supported both by the administration and Democratic Members of the Senate.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Nevada.

Mr. REID. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

Mr. REID. Mr. President, we have here an interesting saga. It started when the House decided to add another month to the fiscal year. That caused a little bit of controversy, to say the least. Then last week they came up with a new proposal, and that is the earned-income tax credit, which Ronald Reagan said was the best antiwelfare program he had ever known. The Republicans in the House decided what they were going to do was slow down the payments of this, the best antiwelfare program ever.

This ran into a little bit of trouble, including the frontrunner for the Republican nomination for President, George W. Bush, who said he thought it was wrong to try to balance the budget on the backs of the poor.

Just a short time ago, they came up with a new proposal. That is what we are here to talk about today, an across-the-board cut. Of course, an across-the-board cut would be devastating. In fact, it was attacked immediately by the Republican chairman of the House Appropriations Committee as a political blunder. He said: ''It's a mistake.

It sets a bad precedent. We have never done anything like that.'' This is the chairman, the Republican chairman of the House Appropriations Committee. So I think we should just step back and become more realistic and look at some reasonable offsets to fund Government the way it should be funded.

In this morning's Washington Post, in something called ''In The Loop'' by Al Kamen, he gave us the results of a little contest he held. He wanted to find out what people thought the new month should be named. Remember, the majority wants to extend the calendar year 1 month. Here are some of the names they have come up with. He said:

> We weeded out some suggestions that came as many as 10 times, such as Porkuary or Porkcember, Debtuary or Debtember, Budgetary. . . .

But some of those he thinks were winners were: ''Abracadember'' which is, magic, It is like ''abracadabra.'' And then ''Payupuary'' was also declared a winner. This is clearly voodoo economics; one of the names that won was ''Voodoober.''

We have another one that sounds pretty good—I certainly agree it should be declared a winner—''Gridlockedober,'' based upon the gridlock that occurred just a few years ago because of the Republicans shutting down the Government. Another one is ''Bustacap-uary.'' This was submitted by a Member of the House of Representatives.

Another one that was not submitted by a Member of the House of Representatives, but probably should have been—is called ''DeLaypril,'' named after the House whip.

I think it is good to add a little bit of levity to what is going on. But the levity should end and we should get serious about getting rid of the appropriations bills. When I say get rid of them, I mean just that. We should get them so they can pass muster here and be signed by the President. The way things are going now, I think the President is going to veto almost every appropriations bill that is going to be sent to him. It is apparent to me the appropriations bills have too much magic in them and really are pieces of legislation that deserve these derogatory names. We must get serious and pass a budget the American people will accept.

Mr. President, I yield the remainder of the time to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. NICKLES. Mr. President, might I inquire of my colleague from New Jersey how long would he wish to speak.

Mr. LAUTENBERG. We have, by unanimous consent, established a half hour on each side. If the Senator from Nevada has used 6 minutes, then we have roughly 24 left.

Parliamentary inquiry: How much time remains?

The PRESIDING OFFICER. The Senator from Nevada, now the Senator from New Jersey, has 25 minutes 30 seconds. The Senator from Pennsylvania has 18 minutes 19 seconds.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent I may yield to the Senator from Oklahoma for 5 minutes without losing any time on our side. That comes off their time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from New Jersey for his cooperation. Of course, this will be charged to our time.

I appreciate the comments by Senator COVERDELL and Senator GREGG. I know Senator GRAMS from Minnesota will be speaking shortly on this amendment. I will make some quick comments, and maybe I will not take 5 minutes.

I hope we do not have to have across-the-board cuts to meet our objectives, but our objective is to make absolutely certain that we do not dip in, as some people say, or spend some of the Social Security surplus money.

Right now there are surplus taxes coming from Social Security. There are more taxes going in than going out. We want 100 percent of that to be used to pay down the national debt. We do not want to spend it. We do not want to spend it for anything other than paying down the national debt. Period. We are drawing the line.

I heard my colleagues from the Appropriations Committee—and I have great respect for the members on that committee; I served on it at one time—say: We do not want to; we do not have to. I agree with that. We even put in the resolution we would have across-the-board cuts only if necessary. I hope it will not be necessary. I do not think it will be necessary.

Right now, in totaling up the bills, from the Budget Committee and the Congressional Budget Office, basically if we have discretionary spending above $592 billion or $593 billion, then we will start dipping into the Social Security money. Current projections are if we continue spending, as outlined in all the appropriations bills, we will be above that figure by about $4 billion or $5 billion. We have not concluded major appropriations bills. We have not concluded the Ag bill, but we are very close. We have not concluded the Department of Defense bill, and we have not concluded the Labor-HHS bill which is the biggest bill. Among those three bills, we can find $5 billion, and there would be no reason whatsoever to have to make this cut.

In the event we do not, for whatever reason, then let's have some adjustments. If it turns out we are $5 billion over—and those are the figures given by the Budget Committee and Appropriations Committee—we will have across-the-board reduction cuts of about 1 percent. It will apply to Defense, Labor-HHS, and VA–HUD. It will apply to all agencies. That is minuscule, that is affordable, and that is doable. It will keep us from dipping into Social Security trust funds as we have done year after year.

A lot of us have been pretty resolute in saying we ought to have a line. We are breaching the line on the caps because we are exceeding the caps by using emergency designations. We are now saying the absolute line is let's not grab Social Security money. That money comes from payroll taxes. It is supposed to be set aside for retirement. It is not to be spent on a variety of programs, whether that is a $2 billion increase in NIH or a $2.3 billion increase in education, or a big increase in defense, or an $8.7 billion emergency Agricultural bill. It should not be spent for those things. If necessary, and hopefully it will not be necessary, we will implement across-the-board reductions to make absolutely certain that we do not dip into the Social Security trust funds.

I thank Senator GREGG, Senator COVERDELL, Senator GRAMS from Minnesota, Senator GRAMM from Texas, and others in supporting this sense-of-the-Senate amendment, and hopefully it will not be necessary; Congress will pass its bills and show at least enough discipline to not dip into the Social Security trust fund.

Again, I thank my colleague from New Jersey for his accommodation so I can attend another meeting. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I offer to let our friends on the other side who want to speak in opposition go ahead now if they want. I will pick up my time when that is done, if that is all right, if anybody has any interest.

Mr. NICKLES. Will the Senator yield for another half second?

Mr. LAUTENBERG. Yes.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator HAGEL be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I want to make sure we mean it when we say we are going to protect Social Security. Right now I ought to say welcome to the magic show because what we are hearing is rather hypothetical: If we want to protect Social Security by adopting across-the-board reductions in all discretionary appropriations, it should be sufficient to eliminate such deficit if necessary.

I believe it is more important to say how we are going to do that without at the same time dipping into Social Security. It is not realistic. This is pie in the sky, and the American public ought to know about what we are talking.

I do not support deep, indiscriminate cuts in education, defense, or law enforcement. Tell the veterans you want to cut further. I want to hear anybody stand on this floor and say to the veterans who served our country when we needed them and we made promises: Sorry, we are going to cut your benefits. I want them to talk about that. I want to hear them talk about how we are going to provide the kind of law enforcement we want when we will be getting rid of FBI agents and Border Patrol people. Cuts to the Immigration and Naturalization Service could result in a reduction of approximately 2,000 Border Patrol agents, when everybody is screaming about the number of illegal immigrants pouring across our borders. I want to hear them talk about programs such as Head Start that give children a chance to learn if they have not had the benefit of a home life that encourages learning. Mr. President, 43,000 children will be cut from the program.

I hope the American public listens. I know they get tired of our droning, but this is the kind of thing they ought to view with interest. I hope we are going to defeat this amendment.

Everyone knows it is now October 6. The fiscal year is almost a week old. But obviously, the Republican majority still does not know how they are going to put together their budget. They have declared they do not want to use Social Security surpluses. No, but the declarations ring hollow. In fact, they have been moving legislation that would raid those surpluses of billions of dollars, and they do not want to admit it.

The Republican tax bill, for instance, would use Social Security surpluses in the years 2005 through 2008. That is not very far away from our initial attempt to increase the longevity of Social Security.

In fiscal year 2008, that raid on Social Security would reach almost $50 billion. Public, listen to this: Now they are pushing bills that will use roughly $20 billion in Social Security funds this very year, the year which started October 1. That is not just my opinion, it is the opinion of the Congressional Budget Office, which is directed by a Republican appointee.

The majority has that right. Over the past few weeks, the majority has twisted itself into knots to evade the discretionary spending caps. They have used gimmick after gimmick, to the point where, frankly, the integrity of the whole budget process has been compromised.

I hope my colleagues can see this chart.

This is what a prominent paper, the Wall Street Journal, had in its issue of July 27: GOP using ''two sets of books.''

Lying about the numbers.

That is a budget expert, a fellow by the named of Stan Collender on the GOP. ''Directed Scorekeeping''—we will talk about that in a minute.

Republicans are double-counting a big part of next year's surplus, papering over the fact that their proposed tax cuts and spending bills already have exhausted available funds.

In the House, the Republicans have declared the census that we are required to take, mandated by the Constitution; it comes around every 10 years—they want to declare that an emergency so it gets out of the spending loop. It is hardly an unexpected crisis. Calling it an emergency gets around the discretionary spending caps. For House Republicans, apparently, that is more important than direct, honest budgeting.

The Republicans are also using two sets of books, as we see described here, to get around the discretionary spending caps. When it suits their purposes, the majority uses CBO scoring; when it does not, they use OMB scoring. This is mumbo jumbo. For those who are not familiar with what goes on here—using this set of books on the one hand and that set of books on the other hand.

If someone was the chief executive of a major corporation—I had the honor of serving in that capacity before I came here—and did that, they could wind up in jail—using books here to describe what is going on on one side, and using books over here to describe a different picture to the public. That is unacceptable behavior but certainly not in this institution. That way, they can pretend they are spending less than they technically are.

Today, I am releasing a report that explains this so-called ''Directed Scorekeeping.'' As the report explains, the majority is forcing CBO, the Congressional Budget Office, to fudge the numbers in an unprecedented way. The report is available from my office. I ask unanimous consent that a copy of that report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOW THE GOP IS USING ''TWO SETS OF BOOKS'' TO HIDE USE OF SOCIAL SECURITY SURPLUS

[From the Office of Senator Frank R. Lautenberg]

THE ABUSE OF ''DIRECTED SCOREKEEPING''

Congress generally relies on the Congressional Budget Office (CBO) to evaluate the budgetary effects of legislation. This year, however, the Republican majority has repeatedly directed CBO to modify its scoring of appropriations bills, in order to make the bills appear less costly. Although such ''directed scorekeeping'' has occurred occasionally in the past, the extent of the practice this year is unprecedented.

According to a recent CBO analysis, congressional Republicans have directed CBO to make more than $18 billion in scorekeeping adjustments in the FY 2000 appropriation bill.[1] CBO generally includes these modifications in its reports on legislation by creating a special account called ''Budget Committee discretionary adjustment.'' This year, the adjustments in the Senate range from $5 million for the District of Columbia to $13 billion for the Department of Defense.

By forcing CBO to modify its scoring of legislation, the GOP has sought to hide more than $18 billion in new spending. This total exceeds the entire non-Social Security surplus, which CBO estimates at $14 billion.

Of course, changing the scoring of legislation does not alter the actual budget impact of that legislation. If CBO's actual estimates are used based on their own assumptions, it becomes clear that congress is on its way to spending at least $18 billion of Social Security surpluses in fiscal year 2000, and perhaps considerably more.[2]

Some Republicans defend ''directed scorekeeping'' as necessary to reconcile differences between OMB and CBO spending assumptions. But if accuracy is the goal, we should stick with CBO. A review of outlay estimates for appropriations enacted between 1993 and 1997 found that CBO's estimates were almost identical to the actual amounts spent in each year.[3] A more recent comparison of CBO and OMB estimates of defense outlays found that CBO's estimates were consistently higher than OMB's between 1997–1999, but that both CBO and OMB came in below actual defense outlays.[4]

The Republicans are also ''mixing and matching'' estimates—combining OMB's lower spending estimates with CBO's higher surplus projections. Choosing the best assumptions from each agency increases the potential for estimating error beyond what would occur under one set of assumptions. This practice is in clear violation of Section 301(g) of the Congressional Budget Act which states that the budget resolution and determinations made for Budget Act points of order ''shall be based upon common economic and technical assumptions''. Unfortunately, there is no practical remedy for violations of this section of the Budget Act since the chair in the Senate relies exclusively on the Budget Committee for all budget rulings.

Scorekeeping directives have been used in previous years, but not on this large a scale. Between 1991 and 1999, CBO was asked to change its estimates of appropriations bills four times by amounts ranging from $1.9 billion in 1993 to $5.5 billion in 1992. The adjustment this year, $18.7 billion, is $5.7 billion higher than the previous nine years combined.

Section 312(a) of the Congressional Budget Act gives the Budget Committees the prerogative to use their own estimates in the budget process. When this discretion is abused, there is no penalty, other than higher deficits. Ironically, American companies don't get off the hook so easily. In recent months, the SEC has cracked down on businesses that use accounting gimmicks to exaggerate profits. Several companies have been charged and some have paid fines. Unfortunately, only the American taxpayer picks up the tab when the Congress cooks the books.

The following table shows CBO estimates of scoring adjustments for the ten year period, fiscal years 1991–2000.

DIRECTED SCORING, FY 1991–2000

[Outlays; in billions of dollars]

Fiscal year	Defense	Nondefense	Total
2000 est.[1]	−13,073	−5,596	−18,669
1999[1]	−2,383	−235	−2,618
1993	−1,291	−565	−1,856
1992	−2,937	−2,532	−5,469
1991	−2,929		−2,929
1991–99	−9,540	−3,332	−12,872

[1] Estimates based on House adjustments.

Source: CBO.

[Memorandum of October 4, 1999]

To: Sue Nelson.

From: Janet Airis.

Subject: Across-the-Board Cut to Discretionary Appropriations.

This is in response to your request of an across-the-board cut to FY 2000 discretionary

[1] Footnotes at end of article.

appropriations. You asked us to calculate an across-the-board cut that would result in an estimated on-budget deficit for FY 2000 of zero, assuming that the current status CBO estimate (excluding ''directed scoring''), as of October 4, is enacted into law. Given your assumption, our estimate of the projected on-budget deficit is $19.2 billion. Our estimate of the outlays available to be cut is $351.7 billion. Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5%

This calculation is preliminary and done without benefit of language. If you have any questions, please contact me at 226–2850.

FY 2000 ACROSS-THE-BOARD CUT
[In billions of dollars, as of Oct. 4, 1999]

	Senate	
	BA	OL
Current action:		
Current Status (as of 10/4/99), excluding directed scoring	564.0	613.1
CBO July, 1999 Baseline	539.3	579.8
Excess over Baseline	24.7	33.2
Debt service on increase to disc. spending over baseline	.....	0.4
Total, excess over baseline	.....	33.6
Less projected on-budget surplus (CBO Economic and Budget Outlook, 7/1/99)	.....	14.4
Projected on-budget deficit as of 10/4/99	.....	−19.2
Calculation:		
Current Status (outlays new, excluding scoring adjustment)	564.0	351.7
Percent A–T–B cut to reduce deficit to 0 (projected deficit divided by new outlays)	.....	0.0546
Across-the-board cut amount	30.8	19.2
Current Status after across-the-board cut:		
BA and new outlays	533.2	332.5
Prior year outlays	.....	261.3
Total	533.2	593.8
CBO baseline plus $14.4 billion (estimated surplus)	.....	593.8

Note: This calculation assumes discretionary budgetary resources (e.g. budget authority, obligation limitations) are subject to the across-the-board cut.

Source: Congressional Budget Office.

FOOTNOTES

[1]CBO has been asked to adjust the House appropriation bills downward by $18.6 billion. The total adjustment from normal CBO estimates in the Senate is $18.3 billion. This includes a $2.6 billion reduction in the projected cost of the defense appropriations bill that Committee staff made to reflect OMB's scoring of a provision that accelerates a spectrum auction.

[2]Letter from CBO Director Dan Crippen to Rep. John Spratt, September 29, 1999.

[3]Congressional Budget Office, ''An Analysis of CBO's Outlay Estimates for Appropriation Bills, Fiscal Years 1993–1998'', October 1998 memorandum.

[4]Congressional Budget Office, ''An Analysis of the President's Budgetary Proposals for Fiscal Year 2000'', April 1999, page 75–82.

Mr. LAUTENBERG. Beyond using the emergency designation and using two sets of books, the majority has resorted to the gimmick of artificially shifting huge amounts of spending into the next fiscal year.

The Washington Post described this as adding a 13th month to the fiscal year, kind of changing the calendar. It is a gimmick, and the public, again, ought to take notice. It is like getting out of debt by putting existing debts on a second credit card. It may make you feel better today, but it is sure going to make things tougher tomorrow.

These are a few of the gimmicks that are being proposed in this legislation. But no matter how many are used, there is no getting around the fact that the majority has busted the spending caps, and they are spending Social Security surpluses. Let's make sure that is clearly understood. They are using the budget surpluses created in the Social Security account to fund Government. They want to take even larger cuts out of programs.

There is a better alternative. Instead of using scorekeeping gimmicks, we can use real offsets; that is, take it from another place. For example, we can close special interest tax loopholes. The Republicans even included some of those loophole closers in their tax bill, so this should not be at all that hard.

Another option that I personally favor is to simply go to the source that cost this country of ours lots and lots of money, the tobacco industry. Let them fully compensate taxpayers for the costs of tobacco-related diseases that they create. Why should they be protected? I do not understand it. Why cannot we get our friends across the aisle to join us in saying to the tobacco industry: Pay the $20 billion that you cost us with the diseases that you have helped render on our society?

It is an outrage. We are going to let them get away with what they do while we say to our citizens: OK, we are going to cut veterans benefits; we are going to cut police efforts; we are going to cut education. Come on. That by itself could virtually eliminate the raid on Social Security—$20 billion by the bills already approved by the Senate.

To its credit, the Justice Department is trying to recoup these costs through civil litigation against the tobacco companies. But as we all know, that could take years. Meanwhile, Congress can act now to make the taxpayers whole. We ought to do it.

The Nickles amendment, however, proposes another approach. It says: Rather than closing tax loopholes or asking the tobacco industry to pay its fair share, let's cut education, let's cut defense, let's cut the FBI, let's cut the Border Patrol, let's cut environmental protection, and let's cut veterans health care.

We heard it said that these across-the-board cuts might be a 2- or 3-percent difference. But those figures are not based on CBO's own estimates; they are based on the so-called ''Directed Scorekeeping.'' That is a direction from the Budget Committee or the leadership to say: Hey, you say it's going to cost $10 billion. I tell you what, let's say something else. Let's say it's only going to cost $9 billion. OK, $9 billion. There is no basis in fact, but let's say it.

It is based on politically driven assumptions about how much bills will cost, not the objective analysis of CBO estimators.

The truth is that if we are serious about protecting Social Security surpluses, the across-the-board cuts would have to be much greater. And if we look at the bills the Senate has already approved, we would need a 5.5-percent cut. And that is not my figure; that comes from the Congressional Budget Office—5.5 percent. The Transportation bill that we just processed through here—and I shared the Democratic leadership in getting that bill to the floor—would take a cut of over $2.5 billion.

But even that is unrealistically low. First, many Senate bills still need to be reconciled with the House, which has adopted a variety of emergency provisions—gimmickry—to allow for increased spending. In addition, Congress almost inevitably will increase spending for other items in the near future: Funding for hurricane victims—that ought to be fresh in our minds—for health care providers that are suffering from excessive cuts, preventing the expected closings of long-term care facilities in major quantities, for operations such as Kosovo; and then it is also a good bet that at some point this year there will be other emergencies: earthquakes, hurricanes, tornadoes—who knows what—that will also require more funding. If we do not offset that spending, it will come straight out of the Social Security surplus—cut the Social Security surplus.

When you account for these additional costs, you would have to cut discretionary spending roughly 10 percent under this amendment—10 percent. Do my colleagues want to go on record in supporting cutting education by at least 5 percent, more likely 10 percent? Do they want to call for cuts in defense, veterans programs, crime initiatives, and health research? I am sure the American public does not want that to happen, and none of us elected to represent them ought to support this wild scheme.

Senator NICKLES has offered his amendment as a second degree to his own underlying amendment. But at an appropriate point, once his second-degree amendment is disposed of, I plan to offer an alternative amendment. My amendment will call for rejecting scorekeeping gimmicks and indiscriminate across-the-board cuts. Instead, it will urge that we protect Social Security surpluses by closing special interest tax loopholes and using other appropriate offsets.

My alternative amendment does not limit the types of offsets that could be used, nor does it single anything out. But it would put us clearly on record in opposition to the broad-based cuts proposed by the amendment offered by the Senator from Oklahoma, and in strong opposition to the continued use of budget gimmickry to avoid tough decisions.

For now, I urge my colleagues to oppose the Nickles amendment. I ask the public who may learn of this amendment to let their Representatives know they do not like it, that they want to protect Social Security surpluses. Let's not make the deep cuts that are arbitrary in education, defense, crime, veterans, and other programs. Instead, let us close special interest tax loopholes, find other appropriate offsets that will allow us to save Social Security, as all of us agree should be done, in a direct and honest way.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Pennsylvania has 14 minutes 18 seconds, and the Senator from New Jersey has 10 minutes.

Mr. SPECTER. Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. GRAMS. Mr. President, I rise strongly to support Senator NICKLES' pending amendment on the Labor-HHS bill, and I commend his leadership and vitality on this very important issue.

This amendment reassures the American people that Congress is not going to spend one penny of Social Security money, and it will put the Senate on record that we will honor that commitment.

We hear our colleagues from the other side of the aisle say Republicans are already dipping into Social Security. They want to spend more money.

That is not true. What we are trying to do is say we are going to go up to the edge but not go over; that is, not spend one dime of Social Security money. By being able to do that, we don't want to dip into the Social Security trust fund. We think everybody, across the board, on discretionary spending should make sure that doesn't happen.

That means we have an across-the-board cut. In other words, reduce all spending, in order to protect Social Security. That, I think, would be a fair and even way to do it.

Our colleagues on the other side don't want to cut spending. They are not talking about cutting spending at all in any programs. What they are saying—and the gimmicks they would use or the magic they would put into this budget—is simple tax increases. Let's penalize big tobacco, they say. But they don't tell us there are dozens of other tax increases buried in their proposal that would also affect every other average working American in this country. In other words, to support their higher spending level, they want to go out and attack the taxpayer. ''Let's raise taxes,'' ''close loopholes,'' are some of the words they use. The magic they put in it is tax increases.

That means every American out there can face higher Federal taxes in order to support larger spending. We are saying, let's do it the other way around. Let us be fiscally responsible. Let us not ask more of the taxpayer. Let us reduce spending across the board and do it in a very fair and equitable way.

I believe this is a crucial step to truly protect the Social Security surplus and save it exclusively for Americans' retirement, not for tax relief, not for government spending. This is a line we absolutely have to draw in the sand.

In fact, over the past few days I have been working on legislation which is related to Senator NICKLES' amendment. I will introduce the bill today.

This legislation will be complimentary to the Nickles amendment. His is a sense-of-the-Senate—my bill would create a mechanism to enforce our commitment. It would prevent anyone, whether it be the Congress or the administration, from raiding the Social Security surplus. This enforcement mechanism is simple and straightforward. Because we won't know whether we are spending the Social Security surplus until we get the CBO revised numbers in January, this bill will trigger an automatic across-the-board cut in discretionary spending to make up any differences if the January reestimate shows we are spending any Social Security surplus. It would work similarly to the sequester of Gramm-Rudman-Hollings, but applies to Social Security surplus spending.

Let me address why it is so important to pass both the Nickles sense-of-the-Senate and my legislation. Economic forecasting is more of an art that a science. Many uncertainties, risks, and factors are involved. We have a budget of $1.8 trillion based on a variety of assumptions, estimates, forecasts and projections, with people using both CBO numbers and OMB numbers. It is highly likely that there are errors in this budget. While we should learn from our past mistakes and take a very prudent and conservative approach in our economic outlook and our spending, a $10 billion error in forecasting of $1.8 trillion is not uncommon.

However, some of our colleagues are out there accusing us of spending the Social Security surplus. the truth is, we don't want to, but honestly we don't know for certain at this point. Neither does the President nor our Democratic colleagues. That is, whey we need my bill as our insurance that we will live up to our commitment.

Some wave the CBO August letter to prove they are right. But Mr. President, as one economist observed, ''If you torture numbers long enough, they will confess to anything.'' This is true with the CBO estimates. As you know, the CBO is a scorekeeping office and it scores based on whatever assumptions Congress requires it to use. We could continue to argue indefinitely over the right assumptions. That does not solve the problem.

Since both Congress and President Clinton have agreed that saving Social Security should be our top priority and have committed to not spending the Social Security surplus for government programs, we must find a better way to keep our promise to the American people.

Republicans have made a number of attempts to create a lockbox to lock in every penny of the Social Security surplus, not for government spending, not for tax relief, but exclusively for Americans' retirement. Unfortunately, opposition by the Democrats has blocked the establishment of this safe lockbox.

In the absence of the Social Security safety lockbox, I hope that all of our colleagues and the President agree with us that we must draw a line in the sand. And live up to our pledge that not a penny of the Social Security surplus will be spent to fund this year's appropriations. Personally, I will vote against any spending bills that our right plans to spend Social Security money. If our spending plans do pass and we would, unintentionally wind up spending Social Security, my bill allows us to keep our commitment to the American people, by scaling back other spending to save Social Security.

Again, since we must use economic assumptions, the difficulty we are facing is because the numbers are so close we won't know if this year's appropriations have spent the Social Security surplus—or which specific spending bill or bills have spent the money—until next year when we receive the CBO reestimate. Therefore we need an effective enforcement mechanism to ensure that Congress and the President do not touch the Social Security money.

The best mechanism is that proposed by Senator NICKLES' sense-of-the-Senate and my legislation. If this year's appropriations end up spending the Social Security surplus as a result of estimate errors, we will automatically rescind that amount by reducing government spending across-the-board and return it to the Social Security trust fund. This will affect discretionary spending only—not entitlement programs for seniors or the needy.

My biggest fear, is that without this mechanism Congress and the President may spend some of the Social Security surplus by using erroneous estimates. We would be forced to legislate after the fact if there is a re-estimate that shows spending of the Social Security surplus. The atmosphere of panic could cloud the type and speed of the remedy. The remedy should be my bill, and it should be passed before we face a problem, so we cannot play the blame game once we have a re-estimate.

The President's revised budget plan would have dipped into the Social Security surplus by $24 billion. Counting his $12 billion emergency spending request, the President would spend $36 billion of the Social Security surplus for fiscal year 2000. Compared with his original budget, which would have taken $150 billion from the trust funds, this revised plan is a great improvement.

However, the President still wants to spend money he pledged to save. That's not acceptable. We must say no to anyone who wants to spend even a penny of the Social Security surplus because we promised the American people we would save it. There is no excuse in an era of budget surplus to continue raiding the Social Security trust funds. Washington has done enough damage to America's retirement system.

In 1998, American workers paid $489 billion into the Social Security system, but most of the money, $382 billion, was immediately paid out to 44 million beneficiaries the same year. That left a $106 billion surplus. The total accumulated surplus in the trust fund is $763 billion.

Unfortunately, this surplus exists only on paper. The Government has consumed all the $763 billion for non-Social Security related programs. All it has are the Treasury IOUs.

Despite Washington's rhetoric of using every penny of Social Security surplus to save Social Security, last year's omnibus appropriations bill alone spent over $22 billion of the Social Security surplus. Without the enforceable mechanism provided by the Nickles amendment and my legislation, the Social Security surplus is likely to be spent to fund other government programs in fiscal year 2000 and the outyears.

Enough is enough. We must stop this outrageous practice. The time is now to show our resolve in protecting every penny of the Social Security surplus to ensure it will be available for Americans' retirement income security.

Do not mistakenly think that our colleagues across the aisle have changed their big spending ways by their rhetoric opposing spending the Social Security surplus. Do not believe for a second that they want to maintain fiscal discipline. They still want to spend more by taxing more.

Instead of controlling spending, the President and the Democrats have increased government spending and created even more government programs. They believe they know best how to spend taxpayers' money and that they can do more by spending more.

This solution to continue to grow funding for government programs at unprecedented high levels is to raise taxes. In the President's budget, he has not just proposed to penalize American tobacco companies, but to raise taxes on also small businesses, homeowners as well as millions of other Americans who are already overtaxed.

Again, the President's solution to avoiding spending the Social Security surplus will be to increase taxes. He will penalize American small businesses by changing their tax rules; he penalizes millions of American seniors who rely on life insurance products for their retirement; he penalizes non-profit trade organizations, which serve the disadvantaged in their communities so well, by taking away their tax exempt status; he penalizes other American companies by imposing environmental surtaxes and excise taxes. The President also penalizes millions of American homeowners by increasing their mortgage transaction fees; he penalizes millions of American travelers by raising taxes on their domestic air passenger tickets.

Is there anyone left who hasn't been penalized by the President and his colleagues in the Congress?

A tax increase is not the solution to this year's serious spending problem. Exercising fiscal discipline is our best solution. Although we don't know if we already have spent the Social Security surplus for fiscal year 2000 due to uncertain and incomplete estimates, we should take a very prudent approach on spending. On principle, we must do everything we can to ensure Washington will not have a chance to touch any Social Security money.

I am disappointed that instead of solving the problem, Washington is trying again to hide behind creative financing, forward funding, emergency spending and so-called technical adjustments to give the appearance we are not breaking the spending caps or eating into the Social Security surplus. I am also disappointed that Congress spends every penny of the $14 billion on-budget surplus for increased spending. Remember, this $14 billion is the tax overpayment which we promised to return to working Americans in the form of tax relief. I proposed this in the budget resolution and Congress included this in our budget resolution early this year.

I have warned repeatedly that if we don't return tax overcharges to the taxpayers or reduce the debt, Washington will spend it all, leaving nothing for tax relief or the vitally important task of preserving Social Security. This year's appropriations bills have proven my fear to be well founded. The last thing we want to do is to spend these tax overpayments to enlarge the government. Since President Clinton's veto prevents major tax relief this year, we at least should dedicate this on-budget surplus to reduce the national debt. But we are spending every penny of it, in violation of our commitment in the budget resolution.

Twenty-five years ago, the Congress passed the Congressional Budget Act, which created an annual budgeting process in the hope of controlling spiraling government spending. Twenty five years later we have made progress but are still unable to tame this beast.

Today, spending is at an all-time high, and so are taxes. The government is getting bigger, not smaller. Government spending is growing twice as fast as personal income. Discretionary spending has increased by over 20 percent since 1993.

The budget process has become so complicated that most lawmakers have a hard time understanding it. Of course, that hasn't stopped the proliferation of budget gimmicks to circumvent the intent of the Congress. The flawed budget process allows Members to vote to control spending in the budget and then turn right around and vote for increased appropriations.

Spending caps are the best example of the phrase ''fiscal discipline'' means nothing in Washington. Spending caps were supposedly a good tool to control spending—if the President and lawmakers could stick to them. But since the establishment of statutory spending limits, Washington has repeatedly broken them because of a lack of fiscal discipline. In fact, the first budget criteria in the past has been to first break the caps so spending could be accommodated.

Washington set new spending caps in 1990 after it failed to meet its deficit reduction targets. In 1993, President Clinton broke the spending caps for his new spending increases and created new caps. But in 1997, the President could not live within his own spending caps, and he broke them again. New spending caps were again re-negotiated and established in BBA.

By 1998, one year later Congress and President Clinton could not live within their new limits and proposed over $22 billion of so-called ''emergency spending'' and other unauthorized spending in the omnibus spending legislation to get around the caps. The use of ''emergency'' spending is far too broad, and has become a common budget gimmick.

This year Washington may spend $37 billion or more above the spending caps and use more creative bookkeeping to give the impression we are maintaining the caps. It demands more spending to fully fund government programs, but delays payment of the bills until the next fiscal year, placing more and more pressure on future caps and spending commitments.

Again and again, Washington lowers the fiscal bar and them jumps over it, or finds ways around it, at the expense of the American taxpayers. This is wrong. If we commit to living within the statutory spending caps, we must stick to them. We must use every tool available to enforce these spending limits. If we were still facing a budget deficit we would not be spending this much money. But because there is a surplus, the feeding frenzy continues. Again, a lack of fiscal discipline.

I understand the upward spending pressure the Congress is facing this year and in the outyears. But I believe we should, and can, meet this challenge by prioritizing and streamlining government programs while maintaining fiscal discipline. We can reduce wasteful, unnecessary, duplicate, low-priority government programs to fund the necessary and responsible functions of government. We could if we tried, but it seems it's easier just to throw more money at the budget. Many believe we can help more if we spend more, but the spending comes at the expense of somebody—and that somebody is usually the average, middle-class taxpayer.

It's true that our short-term fiscal situation has improved greatly due to the continued growth of our economy. However, our long-term financial imbalance still poses a major threat to the health of our future economic security. The President said tax relief was irresponsible. Wrong. It's spending appetite that is irresponsible.

Breaking the caps through more and more spending will only worsen our

short-term fiscal outlook and affect our ability to deal with long-term budget pressures.

We can run but we cannot hide from our budget problems. We must make hard choices and be honest about it. While ''advance appropriations,'' ''advance funding'' and ''forward funding'' are not uncommon practices here, it does not mean they are the right thing to do, particularly when these budget techniques are used to dodge much-needed fiscal discipline.

In the past 5 years, ''advance appropriations'' have increased dramatically, jumping from $1.9 billion in fiscal year 1996 to $11.6 billion in fiscal year 2000, an increase of $9.7 billlion over 5 years. This year, President Clinton proposed advancing nearly $19 billion into fiscal year 2001. Advance appropriations create even worse problems for us in the outyears. We must end this irresponsible practice.

I realize how extremely difficult it is for appropriators to get their job done this year. I appreciate the fact that tremendous efforts are being made to keep our promise not to spend any of Social Security surplus. My point is, in an era of budget surplus, extra prudence and effort is needed to keep ourselves from spending more than we can afford. If we can maintain fiscal discipline, we will be able to honor our commitment to the American people not to take any money from Social Security.

Protecting the Social Security surplus from funding government operations is the last defense of fiscal discipline. I cannot emphasize how vitally important this line of defense is for both the Republican Party as well as the Democratic Party. If we lose this defense, our credibility and accountability with the Americn people will be gone.

Mr. President, the best protection is the Nickles sense-of-the-Senate amendment coupled with my legislation. If more accurate or actual numbers show Congress and the President have spent the Social Security surplus for fiscal year 2000 and beyond, an effective mechanism will ensure the money is returned. It is plain and simple. I hope my colleagues from both sides will support the Nickles amendment and my legislation.

Mr. REID. Will the Senator yield for a question?

Mr. GRAMS. I will yield.

Mr. REID. Is the Senator aware that the cut would probably have to be around a 9 percent across-the-board cut?

Mr. GRAMS. Why would it be 9 percent? Some of the latest numbers I have seen are anywhere from $3.8 to $5.6 billion, and all of the appropriation bills are not yet completed. They have not been submitted or voted on, so we are still estimating. If the Senator is talking about $30 billion or $40 billion, we are not in that range right now. Those accusations have been made, but according to the numbers I have seen, we are not in that range.

Mr. REID. I say to my friend, the Office of Management and Budget, in a meeting last night, indicated at least 9 percent. The House has a number of things in bills they have passed; they have declared those as emergencies. There are other matters that are double funded. For example, in order to pass this bill, there has been money taken from the Defense appropriations bill. There comes a time when we have to fund everything in realistic terms. As I have indicated, the Office of Management and Budget believes across-the-board cuts now would have to be about 9 percent.

Mr. GRAMS. Without agreeing to the Senator's numbers, let me say that if that were the case, wouldn't it show that we are spending more than we should and that that kind of a cut would be something that we should do? If we are going to go back and say to the taxpayer: We can't manage the books and somehow we have spent 9 or 10 percent more in discretionary spending than we have, and the only way we can make it up is to go out and penalize, as my colleagues have said, big tobacco, but also penalize in dozens of other ways with other tax increases—in other words, if we can't do our job responsibly—then we should go to the taxpayer and say, let's just have a little more revenue to make up those differences. I don't think it is going to be in the range of 9 or 10 percent. If that would be true, I think that would be a glaring argument we are overspending by 10 percent in discretionary spending and we should make every effort to trim that spending.

Mr. HARKIN. Will the Senator yield for a question? If the Senator will yield for a question.

Mr. GRAMS. I will yield just for one.

Mr. HARKIN. We have a letter from CBO that says dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5 percent. That is from the CBO. I ask the Senator, if he hasn't, if he would take a look at that. I think he will see that is some pretty deep cuts he is talking about, 5.5 percent.

Mr. GRAMS. I think we are overspending by that much, too. I will say this once again, as I mentioned earlier in my statement. We are using a lot of different numbers. We are using a lot of assessments, projections. We are taking a lot of risks in a $1.8 trillion budget. If some of these numbers are wrong, then I think we need to go back and adjust them. The question, I guess, comes down to how do we adjust them. My colleagues on the other side would adjust them by raising taxes so they could keep spending more. What we are advocating is we would adjust our spending habits and spend less across the board. I think we need to do that because taxpayers today are paying taxes at an all-time record high. Forty-two percent, on average, of everything people in my State of Minnesota earn goes to pay taxes. I think that we can't continue to ask them to pay even more because we can't hold down their spending.

Thank you, Mr. President. I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. How much time remains on each side?

The PRESIDING OFFICER. Four minutes 25 seconds. The Democratic side has 10 minutes.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I yield myself 10 minutes. The CBO has projected that we are heading toward using at least $19 billion of the Social Security surplus next year. Again, I agree with Senator NICKLES that we should not be dipping into Social Security to pay for this year's appropriations bills. But, quite frankly, I believe the other side already has dipped into Social Security by the fact of what they have been doing with their spending bills.

While I do agree with Senator NICKLES on not dipping into Social Security, I don't agree with his solution. Again, he calls for an across-the-board cut against all discretionary programs, even those that we have already passed. They were passed by both sides, went to conference, came back, and they have been signed into law by the President. Now they want to take that back.

OMB has estimated a 9-percent across-the-board cut. We have a letter from CBO which shows that this across-the-board cut that Senator NICKLES is proposing would be about 5.5 percent. Well, let's take a look. The Senator from Minnesota said we are spending too much money. I am going to get into that in a second. Take a look at what we would have to cut with a 5.5-percent cut across the board. Our COPS program, our community policing program that puts cops on the streets, would have to be cut by $26 million; Head Start, $290 million cut; meals for seniors, $29 million cut; NIH, $967 million cut. That is almost a $1 billion cut in NIH. While Senator SPECTER and I and others, in a bipartisan manner, have worked to get the $2 billion increase for NIH and get it on the track to double in 5 years, this would whack about a billion dollars out of NIH.

Mr. REID. Will the Senator yield?

Mr. HARKIN. Yes.

Mr. REID. Will the Senator from Iowa, who has spent so much time on Head Start, explain why it would hurt American children to cut almost $300 million from Head Start?

Mr. HARKIN. First of all, we all agree this has been a bipartisan approach to put more money into Head Start to cover all 4-year-olds in the Head Start Program. We know an ounce of prevention is worth a pound of cure. Every study done, all the educators, everybody says if we can put the money into Head Start, we are

going to save a lot of money downstream.

Mr. REID. It is true, is it not, that it has been proven and apparent that we save money in welfare costs and costs to our criminal justice system by helping these kids?

Mr. HARKIN. That is true.

Mr. REID. Isn't it also true that, even funded at current levels, most kids who need help don't get it?

Mr. HARKIN. Yes. I think right now on Head Start, we are a little over 50 percent. About 50 percent of the eligible kids are served by Head Start. We are trying to get it up to 80 percent.

Mr. REID. If we cut almost $300 million, we are going to drop down to 30 or 35 percent.

Mr. HARKIN. That is correct—probably less than 40 percent. Four out of 10 kids who qualify, who need the Head Start Program, will be cut out of the program because of this cut.

Mr. REID. You heard the Senator from Minnesota say we have to start cutting, that we are spending too much money. Does the Senator from Iowa think we are spending too much money for the Head Start Program?

Mr. HARKIN. The Senator has put his finger on it. We are spending too little on that program. We need to fund it so every eligible child can get into that program.

Mr. REID. The Senator from Minnesota said what Democrats want to do is raise taxes. Hasn't the Senator from Iowa been trying for more than 3 years—would the Senator tell this Senator, because I want some understanding, as to what you are talking about for tobacco, for example, to cover some of these things?

Mr. HARKIN. I am going to get to where we can get the money so we can have the offsets, so we don't have—

Mr. REID. It is not out of taxes, is it?

Mr. HARKIN. Not one penny in taxes. I want to say to my friend from Nevada that the Senator from Minnesota said we are spending too much money. I am thinking that I might offer an amendment to cut NIH by $1 billion. Let's see how many votes we get on the other side. What if I offered an amendment to cut Head Start by $290 million? Do you think the Republicans would all vote to cut that? How about title I, education grants, $380 million in cuts to title I for our schools? How about veterans' health care, cut by $1.1 billion? Does anybody believe that if we offered amendments to cut those, we would get the votes to do that? Maybe the Senator from Minnesota would be the sole person who would vote to cut NIH by a billion dollars; I don't know. Perhaps we ought to have an amendment to see if that is what they want to do.

Mr. REID. Isn't it true that if we had amendments to increase spending for veterans' benefits by a billion dollars, they would pass overwhelmingly?

Mr. HARKIN. That is probably true. The Senator is absolutely right. When the Senator says we are spending too much and we have to cut spending, why doesn't he offer some amendments to cut NIH, title I, meals for seniors, and Head Start? No, they are going to try to hide behind this sort of across-the-board cut. An across-the-board cut means deep cuts in these programs.

The Senator from Nevada said we have a proposal where we can pay for these programs and it would not require any tax at all. This is what we could do. I have a proposal that has been scored by CBO. If we just penalize the tobacco companies that fail to reduce teen smoking—they set the targets to reduce teen smoking, but they are not meeting them. We are saying that they pay a penalty for not reducing that and it raises $6 billion. CBO has given us the score on that. We could fund the Department of Defense at the requested level. What DOD said is, fund them at that level. That saves us $4 billion. We could enact the administration's proposal for student loan guarantee agencies. That is $1.5 billion in savings.

I might add that the House, last week, went the opposite direction. They raised the student loan origination fees. I could not believe they did that. Talk about raising taxes; last week, the House raised the taxes on college students by making them pay more for their loans. They increased it by 25 percent. It affects about one-third of students. More than half of the students in my State of Iowa are affected by that. So they got a 25-percent increase in their origination fees.

Well, that is the opposite way to go. If we enacted the administration's proposal, we would save $1.5 billion. Reduce Medicare waste, fraud, and abuse by $13 billion. Well, again, the House bill—the counterpart to this—actually cuts funding for Medicare waste, fraud, and abuse. It retreats at a time when we have $13 billion estimated annually that we lose to Medicare for waste, fraud, and abuse.

What the House GOP did is to cut $70 million from the audits and other checks that save us $17 for every dollar spent. We know from the audit agencies and others that for every dollar we have spent on audits, every dollar we have spent on the checks, we got $17 returned from waste, fraud, and abuse. Yet the House bill cut money from fighting waste, fraud, and abuse. That is inexcusable. If we want to go after it, we could save $13 billion.

The last is reducing corporate welfare. We have a series of things—$2 billion tax deductibility of tobacco advertising; underpayments by oil and gas industry royalties for use of Federal lands; billions lost because of tax loopholes and gimmicks that allow foreign companies and multinationals to avoid paying their fair share by bookkeeping methods that shift funds to foreign tax havens. By doing that, we can save about $4 billion. So our total offsets are about $28.5 billion, and we haven't raised taxes on any American. Nobody would have to pay more taxes.

Yet this is the choice: Either have these kinds of offsets that will help pay for increased funding at NIH, veterans' health care, Head Start programs, meals for seniors; or what the Senator from Oklahoma wants to do, and that is to have a huge cut in all of these programs. That is really where we are.

As I said, I agree with the Senator from Oklahoma; we shouldn't be dipping into Social Security. But we shouldn't be cutting Head Start programs. We shouldn't be cutting Meals on Wheels, meals to seniors. We shouldn't be cutting NIH and biomedical research. We should focus on the waste, fraud, and abuse, focus on the tax loopholes, focus on the DOD funding at their requested level, and that will more than pay for the programs we have come up with on a bipartisan basis.

The PRESIDING OFFICER. The Senator from Pennsylvania has 4 minutes 25 seconds.

Mr. SPECTER. Mr. President, the consensus has been clear cut that Social Security trust funds ought not to be invaded. The pending Nickles amendment recites that the Congress and the President should balance the budget excluding the surplus generated by the Social Security trust funds. That is really agreed upon, I think on all sides.

The second finding is that Social Security surpluses should be used only for Social Security reform, or to reduce the debt held by the public, and should not be spent on other programs. That is generally agreed upon.

Then the sense-of-the-Senate clause: It is the sense of the Senate that Congress should ensure that the fiscal year 2000 appropriations measures do not result in an onbudget deficit, excluding the surpluses generated by the Social Security trust funds, by adopting an across-the-board reduction in all discretionary appropriations sufficient to eliminate such deficit, if necessary.

The sense of the Senate is not binding, as we all know; it is what we think ought to be done.

I do not like the idea of reducing the discretionary spending, although I think the figures cited by the Senator from Iowa are extreme. I don't think we are looking at a 5-percent across-the-board cut, which would have a deep impact on Head Start, which we ought not to do, or a deep impact on NIH, which we ought not to do.

In proposing this amendment, Senator NICKLES seeks to put the Senate on notice—and appropriately so—that we had better come within the confines, and not exceed the caps, and not go into Social Security. I think that is an appropriate objective.

When the Senator from Iowa articulates proposals for savings in quite a number of other directions, I don't think they are realistic. I don't think the Congress is going to cut defense by $4 billion. When he articulates the view about penalizing tobacco companies that fail to reduce teen smoking by $6 billion, that is a laudable objective, if we can find more tobacco money. It is

too bad we don't have some of the money which was worked out on the $203 billion settlement for the Federal Government. But I don't think that is likely either. Reducing waste, fraud, and abuse is the most lofty objective the Congress can articulate. But finding the money to achieve that is so hard.

While I have worked very closely with my distinguished colleague from Iowa, I don't really think those figures are realistic. I don't think we are going to reduce Head Start. I don't think we are going to reduce NIH. But there is a stick. It is a stick to stay within the budget limitations.

Among a great many alternatives which are undesirable, I believe the pending sense-of-the-Senate resolution is the least undesirable. So I am going to support it.

Mr. President, how much time remains?

The PRESIDING OFFICER. Thirty-five seconds.

Mr. SPECTER. Would Senator NICKLES like the last word?

Mr. NICKLES. Mr. President, I ask unanimous consent for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I apologize to my colleagues for going to the Finance Committee. I have just a couple of comments.

I have heard some of the discussion which said if we enact this amendment, we will have a 5-percent reduction. That is not the case. I have heard my colleagues say the Congressional Budget Office says it. Well, frankly, you get into descriptions of who is doing the scoring. If you use the administration scoring, it is not 5 percent; it is 1 percent. We use some administration scoring, OMB scoring. When we had the Gramm–Rudman-Hollings law, we used OMB scoring. They were the ones who implemented it. We use OMB scoring in a lot of the bills we have before us. If that is the case, we are $5 billion off. I don't think we have to be $5 billion off. I think we can, within the last few bills, narrow it down. We can eliminate $5 billion of growth in spending. Across the board won't be necessary, it shouldn't be necessary, if we show just a little discipline.

I know others on the other side said we can raise taxes. That may be their proposal. But it is not going to pass.

Yet I know there is lots of demand for increases in spending. We are trying to say we should have some restraint. The restraint is that we shouldn't be dipping into the Social Security surpluses. If we are going to spend Social Security surpluses, let's have an across-the-board reduction—if necessary. I hope it is not necessary. Let's do that if necessary to restrain the growth of spending, so we can ensure that 100 percent of the Social Security funds are used for debt reduction or for Social Security and not used for more Government spending in a variety of areas, whether it is defense, Labor-HHS, or you name it.

I thank my colleagues for their cooperation.

I yield the floor.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent for 1 minute so I may respond.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, the Senator from Oklahoma stresses the difference between OMB and the Congressional Budget Office. It is the typical preference to use the Congressional Budget Office.

I point out a letter dated October 4 sent to a senior member of our staff. It says:

> Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5 percent.

This is from the Congressional Budget Office. They are the gospel, I think, when it comes to making decisions in the Budget Committee.

I ask unanimous consent that the letter be printed in the RECORD, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Memorandum of October 4, 1999]

To: Sue Nelson, [Democrat Staff—Budget Committee].
From: Janet Airis [CBO Staff].
Subject: Across-the-Board Cut to Discretionary Appropriations.

This is in response to your request of an across-the-board cut to FY 2000 discretionary appropriations. You asked us to calculate an across-the-board cut that would result in an estimated on-budget deficit for FY 2000 of zero, assuming that the current status CBO estimate (excluding ''directed scoring''), as of October 4, is enacted into law. Given your assumption, our estimate of the projected on-budget deficit is $19.2 billion. Our estimate of the outlays available to be cut is $351.7 billion. Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5%.

This calculation is preliminary and done without benefit of language. If you have any questions, please contact me at 226–2850.

Mr. SPECTER. Mr. President, we have attempted to set this first- and second-degree amendment aside, but we cannot get consent to do that. We are now seeking unanimous consent to move to foreign operations. We are waiting for final clearance.

MEASURE PLACED ON THE CALENDAR—S. 1692

Mr. SPECTER. Mr. President, on behalf of the leader, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative assistant read as follows:

A bill (S. 1692) to amend title 18, United States Code, to ban partial birth abortions.

Mr. SPECTER. Mr. President, I object to further reading of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUTCHINSON). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1650 AND H.R. 2606

Mr. SPECTER. Mr. President, we are trying to move this bill on Health, Health Human Services, and Education. We are seeking short time agreements so we can finish this bill by the close of business tomorrow. Senator HARKIN and I, Senator REID and Senator COVERDELL's staff, are trying to get that done. We have not been able to move ahead at the moment because we cannot get consent to set aside the pending Nickles amendment, second-degree amendment. We are going to proceed now to foreign operations. We have consent on a proposal, which I am about to make.

I ask unanimous consent the pending first- and second-degree amendments be laid aside and the Senate now proceed to the conference report to accompany the foreign operations bill and there be 1 hour for debate equally divided; the conference report should be considered read.

I further ask the votes in relation to the pending amendment and the conference report occur following the use or yielding back of the time, and the votes occur in a stacked sequence with the second vote to be 10 minutes in duration.

Mr. REID. Reserving the right to object, and I shall not object, it is my understanding, then, we would vote first on the foreign operations conference report or the amendment of Senator NICKLES? Which do you want to vote on first?

Mr. SPECTER. Vote first on the conference report, since we will be taking that up.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, therefore Senators may expect votes to occur perhaps as early as 11:45. We have lost about a half hour waiting for this transition, so it is my hope that although we have the unanimous consent agreement for 1 hour, we might accomplish the debate in a half hour and finish at 11:45, where we could then be expected to proceed to a vote. If the managers insist on taking the full hour,

then the vote will start at 12:15. But it is hoped, so we can move this bill along, to repeat, that we can have the time yielded back and start the vote as early as 11:45.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

The PRESIDING OFFICER. Under the order, the Chair lays before the Senate a report of the committee of conference on the bill (H.R. 2606) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes.

The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2606), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Under the order, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 27, 1999.)

Mr. REID. Mr. President, with the permission of the Senator from Pennsylvania, I ask a quorum call be initiated and the time run equally against both sides on this conference report.

Mr. SPECTER. Agreed.

Mr. REID. 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent the Senator from Oregon be allowed to speak as in morning business but the time would run against the underlying agreement on the foreign operations bill; he be allowed to speak for—5 minutes?

Mr. WYDEN. I appreciate the Senator's courtesy. If I could have 10, that would be appreciated. I know this is an important bill. I do not want to hold it up.

Mr. REID. Mr. President, we need to get agreement.

The Senator is speaking for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

SENIOR PRESCRIPTION INSURANCE COVERAGE EQUITY ACT

Mr. WYDEN. Mr. President, I thank the Senator from Nevada who has been a strong champion of the rights of seniors. He and I serve on the Committee on Aging.

I take this opportunity this morning to talk about an extraordinarily important issue for the older people of this country, and that is the need to make sure senior citizens can get prescription drug coverage as part of the Medicare program.

I am especially proud that Senator OLYMPIA SNOWE and I have introduced what is now the only bipartisan prescription drug bill before the Senate, and I am hopeful in the days ahead we can get this legislation before the Senate and ensure that the millions of vulnerable older people in this country get decent prescription drug coverage under Medicare.

I believe it is time to get this issue out of the beltway, get it out of Washington, DC, and get it to the grassroots of America. That is why Senator SNOWE and I have initiated a grassroots campaign to get prescription drug coverage under Medicare.

As folks can see in the example next to me, we are hoping in the next few weeks that senior citizens and their families from across the country will send in copies of their prescription drug bills to their Senators. We think our proposal, the Senior Prescription Insurance Coverage Equity Act, known as SPICE, is the way to proceed because it is bipartisan, it is market oriented, it gives senior citizens choice in the marketplace, and uses marketplace forces to hold down costs for prescription medicine.

We use as a model the Federal Employees Health Benefits Program, which is what Members of Congress and their families have as the delivery system for health care. If it is good enough for Members of the Senate, Senator SNOWE and I believe it is good enough for the older people of our country.

We are hoping that instead of this just being a discussion within the beltway, with the various interest groups on one side or the other lining up, we hope in the days ahead, as a result of senior citizens sending in copies of their prescription drug bills and their families weighing in with their legislators, we can get our bipartisan bill moving.

More than 50 Members of the Senate have already voted for the funding proposal Senator SNOWE and I advocate. We propose there ought to be a tobacco tax to fund this program. We believe that is only right, because in this country, more than $12 billion goes out of the Medicare program each year to handle tobacco-related illnesses. We believe there is a direct connection between the funding proposal we establish and making sure older people get this benefit. With more than 50 Members of the Senate on record for the budget vote that Senator SNOWE and I offered earlier this year, we ought to be able to build on that vote and actually get this program added to Medicare.

I am especially pleased the approach Senator SNOWE and I have taken is one that can help lower the cost of prescription drug coverage for older people. A key part of this debate is coverage, but equally as important is the need to hold down the costs of these prescriptions. We are seeing around this country that the big buyers of prescription drugs—the health maintenance organizations and the large purchasers—get a discount and senior citizens are hit with a double whammy. Not only does Medicare not cover their prescriptions, but when a senior citizen walks into a pharmacy and picks up their prescription, say, in Arkansas or Oregon or Maine, they, in effect, are subsidizing the discounts the big buyers are getting as a result of their marketplace power.

Some have proposed a system of price controls, putting Medicare in the position of buying up all the medicine and using that as their idea of holding down costs. Senator SNOWE and I think that will end up generating a lot of cost shifting on to the part of other people who are having difficulty covering their prescription drug bills.

We favor a market-oriented approach along the lines of the Federal employee health plan. We are not talking about a price control regime or a run-from-the-beltway approach to this issue. We are talking about using marketplace forces to hold down the costs of prescription drugs for our older people.

It is especially urgent now. More than 20 percent of the Nation's senior citizens are spending more than $1,000 a year out of pocket for their prescription medicine. We have older people with incomes of $15,000, $16,000 a year spending $1,000 or $1,500 each year on their prescription drugs. Very often those seniors are not able to pick up a prescription their doctor phoned in to their neighborhood pharmacy because the senior citizen cannot afford it, and the prescription languishes for weeks at the pharmacy because they cannot pick it up.

That is what I have heard from seniors in my State of Oregon. We have heard from other seniors whose physicians tell them they should be taking three pills a day and they cannot afford that, and they start by taking two, and then they take one. Eventually they get sicker and they need much more expensive care.

In fact, the pharmaceuticals now and the medicines of the future are going to be preventive drugs. They are going to be drugs that help lower blood pressure and help us deal with cholesterol problems. As a result, in the long term, we are going to save significant dollars by preventing expensive institutionalizations and hospital services as a result of adding immediate prescription drug coverage to the Medicare program. Clearly, this benefit needs to be paid for.

The proposal Senator SNOWE and I have offered will generate more than $70 billion in the next few years to add this benefit to the program. I am very hopeful the Senate will move on a bipartisan basis to tackle this issue.

There are many, certainly, in Washington, DC, who think the prescription drug issue is too complicated and too political to deal with now, that we should wait until after the election. Senator SNOWE and I reject that approach. It is more than a year until the next election. We are hoping senior citizens, just as this poster next to me says, will send in copies of their prescription drug bills to their Senators. Tell the Members of the Senate exactly why this issue is important to them, why the lack of prescription drug coverage is causing them a hardship, and help Senator SNOWE and I ignite a grassroots movement to ensure that prescription drug coverage does become part of the Medicare program.

In effect, it is time for a wake-up call to the Congress. Some of the naysayers and those who say we ought to put this issue off I think are missing the real needs of the Nation's older people. If you have an income of $15,000 or $16,000 and you are spending $1,500 a year for prescription drugs, if you are giving up other essentials, such as electricity, to pay for your prescription drugs, you cannot afford to wait until after the next election.

It may be a luxury for people here in the beltway to wait until after the next election to talk about the need to come up with a practical solution to covering older people with their prescriptions. Senator SNOWE and I think waiting is not a luxury that the millions of vulnerable, older people in this country have. They cannot afford to wait.

We are hoping, as a result of this campaign we have launched in the last week to have folks send in a copy of their prescription drug bills, that this can serve as a wakeup call to this Senate and this Congress that the time to act is now.

We hope the Senate will choose the proposal we have developed. Undoubtedly, there are other very good ideas. I am sure we will hear from seniors, when they send in copies of their bills, about the best way to address this issue legislatively. Ours is a marketplace-oriented approach. It is based on the kind of program that Members of the Senate have.

We hope, in the days ahead, seniors from across the country will send us copies of their prescription drug bills. We want to see this coverage added now. We want to see the Senate address this in a bipartisan way.

With that, I yield the floor.

Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be evenly charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000—CONFERENCE REPORT—Continued

Mr. MCCONNELL. Mr. President, to my amazement, we received a letter indicating the President might want to veto the foreign operations appropriations bill, a stunning development, it seems to me, almost inexplicable.

This bill, while not as much as the President requested, is as large as he signed last year and includes a number of items important not only to many of us but to him as well.

For example, if this bill were to ultimately be vetoed, the President would be vetoing—would be stopping—aid to the Newly Independent States of the former Soviet Union of $735 million; developmental assistance, which was $83 million over his request in this bill that he is threatening to veto; narcotics assistance at $285 million, which is $24 million above last year, the bill that he signed; for AIDS, $180 million to fight AIDS, which is $55 million above the bill that he signed last year; for UNICEF, an important program of the United Nations, there is $110 million in this bill for UNICEF, which is $5 million more than in the bill last year that he signed.

Obviously, we continue the Middle East earmarks to Israel and Egypt. Vetoing this bill would deny $3 billion to Israel. I think it is important to note that The American Israel Public Affairs Committee supports this bill. AIPAC supports this bill. I ask unanimous consent that letter of support be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AIPAC,
Washington, DC, October 6, 1999.

Hon. MITCH MCCONNELL,
United States Senate,
Washington,DC.

DEAR CHAIRMAN MCCONNELL: We are writing to express our support for the Conference Report on HR 2606, the FY 2000 Foreign Operations Appropriations bill, which contains funding for Israel's regular aid package, including provisions for early disbursal, offshore procurement and refugee resettlement. The Middle East peace process is moving forward with both Israel and the Palestinians committed to resolving issues between them within a year. It is important that Congress support Israel as this process moves ahead, and we therefore also hope and urge that Congress find a way to fund assistance to the Wye River signatories before the end of this year.

Sincerely,

LIONEL KAPLAN,
President.
HOWARD KOHR,
Executive Director.
BRAD GORDON,
Legislative Director.

Mr. MCCONNELL. Mr. President, other items in this bill of interest: Child health, immunization, and education initiatives. For Kosovo—we fought a war there a few months ago—there is $535 million for Kosovo and for some of the countries surrounding Kosovo that were impacted by the war that was fought there. That is $142 million more than the President requested.

In addition, there is money in this bill for the environment, for biodiversity, for tropical rain forests, unique ecosystems initiatives. All of that will be denied if the President vetoes this bill.

For Lebanon and Cyprus, to help in the reconciliation process there, there is $15 million for Lebanon and $15 million for Cyprus.

Infectious diseases, especially polio and TB campaigns, which have been priorities of Senator LEAHY, all of that would be vetoed by this bill.

Funds for Georgia, for Ukraine, for Armenia, for Poland—all of which is supported vigorously by Americans of Georgian, Ukrainian, Armenian, and Polish descent—all of that would not go forward if this bill were vetoed. The vote on this bill, when it went through the Senate—and it is not all that different now from the way it was when it cleared the Senate—was 97–2. This is virtually the same bill, at $12.6 billion, which protects virtually all of the Senate priorities passed here at 97–2. On the threat reduction initiative, we have spent $5.9 billion in Russia over the years. There are no restrictions on the $735 million we provide for that area of the world preventing funding of this new $250 million initiative to control the nuclear problem there.

On development assistance, the President claims it is dramatically underfunded. In fact, we not only exceeded last year's level—that is the bill President Clinton signed—we exceeded last year's level of spending and we have exceeded his request for this year. The President requested $83 million less than the conference has provided.

The veto threat to the Senator from Kentucky is inexplicable. It doesn't make any sense, unless this important bill for the assistance of Israel and Egypt and Armenia and Georgia and Ukraine and a number of other worthwhile causes that are supported around the world is somehow being made part of a larger strategy by the administration to veto all of these bills.

This bill enjoys strong support from AIPAC, from Armenian Americans, from Georgian Americans, Polish Americans, Latvian, Lithuanian, Estonian, and Ukranian Americans. They are but a few of the Americans who appreciate this bill.

As I indicated, all of these items are threatened by the President's inexplicable decision to threaten to veto this bill.

Finally, let me say, before turning to my friend and colleague from Vermont, Senator LEAHY, I don't know where the President wants to get more money for this bill. Are we going to take it out of the Social Security trust fund to spend on foreign aid? Is that what the President is suggesting we do? Does President Clinton want us to take money

out of the Social Security trust fund and spend it on foreign aid? I don't think that is something we ought to be doing. I don't think the American people would like that.

I repeat, this is a bill that was supported overwhelmingly on a bipartisan basis when it cleared the Senate the first time. It is about the same size as the bill the President signed last year.

I don't think there is any rational basis for the vetoing of this bill. I encourage the Senate to speak once again on a broad bipartisan basis with a large vote to support this important bill which means so much to peace and stability around the world.

With that, Mr. President, I understand we are planning on voting around noon. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is available to this side of the aisle?

The PRESIDING OFFICER. The Senator from Vermont has 14 minutes 50 seconds remaining, and the Senator from Kentucky has 17 minutes 24 seconds remaining.

Mr. LEAHY. Mr. President, I understand the distinguished Senator from Oregon, Mr. WYDEN, had spoken earlier as in morning business; is that correct, and that was taken from my time?

The PRESIDING OFFICER. The UC took the time from this bill.

Mr. LEAHY. I ask unanimous consent that the time taken by Mr. WYDEN be restored to my time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. I thank the Chair. We may well not use it. I am trying to protect time for some who may want to come and speak.

It has been a week since the conference committee on foreign operations completed its work. The House tried, during that week, to muscle the votes to pass it, and yesterday they did, by a three-vote margin.

As stated by some of the leadership in the House, the bill is part of a grand Republican strategy to force the President to either except a large cut in funding for foreign policy or veto the bill and then be blamed for cutting Social Security to pay for foreign policy, even though everybody knows that is not going to happen. I think the American people are more savvy than that. They know that foreign policy is the key responsibility of the Federal Government. It has been ever since the days of Thomas Jefferson and Benjamin Franklin.

Today the world is far more complex, more dangerous, more independent than anybody could have assumed. They also know the President is not going to do anything to harm Social Security.

The House finally passed the conference report by three votes. The bill will pass here, with a third of the Senate voting against it. Then the President vetoes it. It is unfortunate we are here.

In that regard, let me say something about the distinguished senior Senator from Kentucky. I should warn him and alert him that I am going to praise him. That may bring about the Republican State committee initiating in Kentucky a recall petition, but that is the price of fame and glory.

The fact is, the distinguished senior Senator from Kentucky took an allocation, as chairman of this subcommittee, which by anybody's standards—his, mine or anybody else's—was too small. With that, he tried to fashion a bill that reflects the best interests of our country and the needs of our country and the great humanitarian nature of Americans.

He has done it extraordinarily well. He has bent over backward—I say this to all Democratic Members of the Senate as well as Republican Members—to accommodate the needs of Senators on both sides of the aisle. His chief of foreign policy, Robin Cleveland, and others have worked very closely with Senators on both sides of the aisle to try to accommodate all they could. Are there things not in here? Of course. You only have so much money.

There are things the Senator from Kentucky would like to increase in here, substantially. Without embarrassing him, I won't go down the list, but he could think of a number of areas. Are there things the Senator from Vermont would want to see increased? Of course, there are, substantial areas.

We have seen, for example, the situation we now have in New York City where, after an outbreak of encephalitis, there is now a feeling that this disease came over transported by a bird. It is now infecting birds and humans in New York. As birds migrate south, it will affect others. Where did the disease come from? A different continent. It demonstrates that every disease is only an airplane trip away.

We have money in here to approach that problem, working with a number of people, Dr. Nils Daulaire and others, to try to help countries identify diseases when they occur in their country, help them eradicate them there, help them contain them—both for the humanitarian effort of helping this country get rid of the disease, but also one that protects all the rest of the world so the disease doesn't spread. Could we use a lot more money? Yes, we could. Ironically, we will end up spending hundreds of times more in this country, if we don't do this, just to help protect our own people within our own borders, than the fraction of that amount we would spend to stop the disease from occurring in the first place. That is one example. AIDS, the greatest calamity to hit the world since World War II, does not have ample funds.

It has extra money in here. I complimented him and the distinguished Senator from Kentucky for helping get that money in. Both of us believe and both of us have said repeatedly that the money in here falls short of what is needed to protect our interests around the world.

For years, we urged the administration to fight harder for the foreign operations budget. Let me say this as a criticism of the administration of my own party: Too often, the administration has done too little, too late to build the support in Congress.

At the same time, the Congress has failed to allocate to our subcommittee the funds we need. This bill is $800 million below the 1999 level and $1.9 billion below the President's request, which, frankly, was not an unreasonable request. It is substantially less than this Congress was willing to give President Ronald Reagan for foreign aid. At a time when President Reagan was expressing concerns about foreign aid, he was still spending far more than we have in here, in a world much smaller than it is today.

It may surprise Senators to know that the President's fiscal year 2000 budget request for foreign operations, which he didn't get, is about the same as the amount we appropriated a decade ago. It is far less if you count inflation and far, far less if you count the amount we actually came up with.

We have a lot of interests around the globe. The United States, a nation of a quarter of a billion people, has the preeminent economy and military might in the world. But our economy and military might, by itself, does not protect our interests totally and does not enable us to continue our interests into the next century.

It is absurd that at the threshold of the 21st century, we continue to nickel and dime our foreign policy spending. We spend less than 1 percent of the Federal budget on foreign policy. Yet we are a worldwide power. Companies in my little State of Vermont are involved in international trade. We are, on a per capita basis, about third or fourth in the country in exporting outside our borders. With the Internet, any company in Vermont, or Kentucky, or Arkansas, or Illinois, or anywhere else, which does business on the Internet, if they are selling something, they are going to get inquiries from Sri Lanka, from Japan, from Germany, from the Middle East. We are a worldwide, interconnected economy.

We are also a nation that is called upon almost as a 911 source to help put out regional battles, fights, and so on, where democracy has not taken hold, and we will spend tens of billions, even hundreds of billions, of dollars to do that. But we won't spend a tiny fraction of that amount of money in our foreign policy budget to try to help democracy take place in the first place, so we don't have to call out the marines.

Unfortunately, the majority in Congress refuses to face up to that. We continue to underfund these programs

and to underfund our diplomacy in the Commerce-Justice-State appropriations bill.

It is an isolationist, shortsighted approach that weakens our security, puts undue burdens on our Armed Forces, and does damage to future generations of Americans. We still have Members of Congress who call this foreign aid, and they even brag about cutting foreign aid. These are the same Members of Congress who say, ''I will never leave the shores of this Nation while I serve in Congress,'' as though this Nation exists just within its shores—a nation where every one our Fortune 500 companies do business around the world, every one of our States' economies is greatly affected by what kind of business we do around the world. Our students travel abroad; our citizens travel abroad. I don't know how many times we have people going to other countries saying, ''I am an American, I must have some rights.'' What do we do to help support those rights?

To say we don't need to be involved in foreign aid, especially when the United States spends far less of its budget than most other nations—actually less in dollars than some— is simplistic, self-serving, and mostly inaccurate. These programs benefit all Americans.

We have a number of programs that are underfunded in this budget that create jobs in the United States. We create the greatest number of jobs in our economy in those jobs that affect our exports. To the extent that our foreign aid and foreign policy programs improve the economies of other countries, they improve our markets. But unlike the request the President has made for funding to support America's export community, the bill cuts those funds.

The President has requested funding to support national security programs, including to safeguard nuclear material in the former Soviet Union. If you want something to make you wake up at 3 o'clock in the morning, think of the inadequate controls over the nuclear material that is now stored in the former Soviet Union. Ask any American, ''Would you support something that would help us secure those nuclear materials?'' and they will say yes. This bill cuts those funds.

The President has asked for funds to build free markets, to strengthen democratic governments that support our policies, to protect the global environment. I don't think anybody opposes these programs, but we are just not going to pay for them. Rather than funding them at a level commensurate with the requirements and needs of a superpower with the world's largest economy, some want to make political points. I disagree with that. I think that is dangerous.

I voted to report the bill from the committee. I did that mostly out of respect for the efforts of the chairman of the subcommittee. I voted for it on the floor, as most Senators did, to send it to conference. But I said at that time my vote was contingent upon additional funding being added in conference. It did not happen.

I don't support everything the President has asked for at all. I want to make that clear. Some things I would vote against. But there is much in this conference report I do support. I don't support a cut in funding. I think the long-term security costs to our economy and our security will be far greater. It is simply irresponsible.

Year after year, I have voted for foreign operations bills I thought were too low. I thought last year's bill was too low, and I said so at the time. I voted for it because I thought it was the best we could do and it would not do irreparable harm to our national security. But this bill is $800 million less than last year's.

We have written a balanced bill. I have talked about the provisions I support, such as funding to combat HIV/AIDS in Africa and other development assistance programs. It also includes some provisions I don't support, but we had a fair debate and vote on them. That is fine with me.

Funding for IDA, which makes low-cost loans to the poorest countries, was cut by $175 million. Funding for the U.N. agencies was cut. Funding for the Korea Energy program cut by $20 million. Funding for peacekeeping was cut. Funding for nonproliferation, antiterrorism, and other security programs was cut. The Peace Corps was cut.

The world's population is going to pass 6 billion people next week, yet this conference report provides $50 million less for international family planning than the amount passed by the Senate in July and $100 million less than we spent 10 years ago, when the population was much smaller.

It cuts funding for the Global Environment Facility by $157 million below last year's level and $108 million below the President's request.

I want to see a bill the President can sign. I say this to the administration and the leadership of the House and Senate: You have many Members on both sides of the aisle who want a good bill. But all of you are going to have to help us get the money so we can have a better bill.

Mr. KOHL. Mr. President, I will be voting against the fiscal year 2000 Foreign Operations appropriations bill conference report. Although I supported this bill when it came through the Senate, I was hopeful that during the conference we would find the resources to address the serious deficiencies in this bill. Unfortunately, that was not the case and we have before us a bill that dramatically cuts the Administration's request for foreign operations by 14 percent.

At a time of great uncertainty around the world, when we are being called on to foster new democracies, support peacekeeping operations, prevent the spread of nuclear weapons, and provide critical support for the ongoing Middle East peace process, we have before us a bill which threatens to undermine many of these vital foreign policy interests. If we nickel and dime our foreign policy priorities now, we will pay a higher price down the road when we respond to the ensuing international crises.

I have generally supported our foreign aid budget. It is a less than one percent of our annual budget, a small amount to protect our national interests and provide tremendous benefit to those in need. In the past, however, when our spending contributed to burgeoning deficits, I opposed foreign aid or for that matter any spending bill that surpassed the spending levels of the previous year. However, in this era of budget surpluses the debate has shifted to a question of priorities. And, it is in this context that I must oppose this bill. We cannot afford to give short shrift to basic priorities traditionally funded in this bill. It is my hope that after the President vetoes this bill, we produce a bipartisan foreign operations budget that can be supported by all.

Mrs. FEINSTEIN. Mr. President, I rise to oppose the Foreign Operations Conference Report and to express my disappointment that in passing this report the Committee has not provided funding for the U.S. commitment to the Wye River agreement.

This conference agreement, which provides $12.6 billion in funding, is nearly $2 billion below the President's request and $1 billion less than last year's bill. This low level of funding makes it all but impossible for the U.S. to maintain its leadership role in the international community. Indeed, nearly every major account in the conference report is underfunded, including funding for voluntary international peacekeeping, the Peace Corps, Multilateral Development Banks, the Enhanced Threat Reduction Initiative, African development loan initiatives, the Global Environment Facility, and debt relief for the world's poorest countries.

Most troubling, one specific initiative, the Wye assistance for the Middle East peace process, is nonexistent.

As Israel and the Palestinian Authority move ahead with implementation of the Wye agreement and final status negotiations, it is vital that the United States also do its part in meeting its commitments and obligations.

On Monday I, and twenty-one of my colleagues, sent letters to the President and to the Majority and Minority leaders about the critical importance of meeting our Wye commitments. Let me tell you why I consider this to be such an important issue.

On September 4, 1999 Prime Minister Barak and Palestinian Authority President Arafat signed the Sharm el-Shiekh Memorandum, expediting the fulfillment of Israeli and Palestinian obligations under prior treaties, particularly the Wye agreement, and establishing a time line for the completion of final status negotiations by

September 13, 2000. Under this agreement: Israel has now relinquished an additional 7 percent of the West Bank, with 5 percent more slated for turnover to the Palestinian Authority later this year; Israel has released 199 Palestinian prisoners with another 150 scheduled for release later this year; Israel has started to open the Shuhada Road in Hebron; the Palestinian Authority has submitted its list of police; and, Israel and the Palestinian Authority have formally initiated final status negotiations.

Israel and the Palestinian Authority are meeting their obligations, and as Israel, Jordan, and the Palestinian Authority continue to make progress in these negotiations, it is all the more critical for the United States to provide the financial assistance and support that has been promised.

Whereas the first land transfer from Israel to the Palestinian Authority did not involve the movement of Israeli troops or bases, the next two planned transfers will involve the redeployment of troops, bases, and other infrastructure at considerable cost to Israel. In fact, there is some concern in Israel that if the U.S. is unable or unwilling to meet its commitments under Wye, the budget of the government of Israel will be thrown into chaos.

The United States has pledged to provide $1.2 billion to Israel, $400 million to the Palestinians, and $300 million to Jordan to assist them in meeting their obligations under the Wye accord, as well as for economic assistance for Jordan and areas under the Palestinian Authority.

The United States has a deep commitment to Israel and its Arab partners in the peace process to help advance negotiations and to help meet the financial burden placed on the parties in the peace process in meeting their obligations. We have undertaken this commitment both because it is the right thing to do and because it serves well vital U.S. national security interests.

The Wye agreement represents an important step on the road to peace in the Middle East. We must meet our obligations under Wye, and I do not believe that Congress should pass a Foreign Operations Appropriations bill that does not include such funding.

I do not believe that the United States can adequately pursue our national interests and foreign affairs priorities with this Conference Report. It will not allow the U.S. to continue to operate important international programs at current levels, will undoubtedly detract from the stature of the U.S. in the international community, and lets down our partners in the Middle East peace process. I urge my colleagues to join me in opposition to this conference report.

Mrs. MURRAY. Mr. President, as a member of the Foreign Operations Appropriations Subcommittee, I have always supported the subcommittee's bill here on the Senate floor. We always have difficult and controversial choices before our subcommittee. Under the leadership of Senators MCCONNELL and LEAHY, we have been able to do a reasonable job crafting a bill with bipartisan support.

Unfortunately, that is not the case this year. I will be voting against the foreign operations appropriations measure. I take this action for a number of reasons.

Most importantly, this bill is woefully underfunded. The bill is $2 billion less than President Clinton's request and some $800 million below last year's congressionally approved funding level. This account has already been cut significantly in recent years. The most recent cuts, in my estimation, will cripple our already meager foreign aid efforts. We spend a great deal of time here in the Congress talking about the U.S. role as the world's lone superpower. The foreign operations bill is a test of our sincerity in providing global leadership beyond the realm of U.S. military might.

This bill does so many things that project an America to the world that we can and should all be proud of. We educate young girls, we provide microcredit loans to small family enterprises, we export democracy throughout the world, we cooperate with human rights activists and monitors, and we create opportunities for American citizens and business interests abroad. Unfortunately, the bill on the floor today cripples our efforts to work internationally, vital work that is in the national interest of the United States.

The foreign operations bill fails to provide any funding to the important Middle East peace process. The President had requested $500 million in assistance to aid the implementation of the Wye River Accords. This small investment in peace and security is even more important given the recent agreement between Israel's new government and the Palestinian Authority. Now is the time to reassert U.S. support for the peace process that, at this moment, shows so much hope and promise.

I also am disappointed that this bill underfunds our export promotion programs. For example, the Export-Import Bank, which protects and creates American jobs, is funded below the 1999 level and far below the Administration's 2000 request. U.S. workers compete in the global economy. That's a fact. It is equally true that other governments in Asia and Europe do far more to help their exporters succeed. Our ability to compete and win abroad for American workers is impacted by the foreign operations bill. And this bill could do far more for American workers.

Finally, I continue to have reservations regarding the funding levels and the restrictive language placed on our international family planning assistance programs. The restrictive language is particularly harmful as it cripples the provision of valuable family planning programs which aid population control, economic development, environmental protection and some many other areas. Our false family planning debates driven by domestic politics here in the United States only harm thousands of women and families in the developing world.

Mr. President, this bill will not become law. President Clinton has promised a veto for numerous, very legitimate reasons. I encourage the President to follow through with a veto if this bill makes it to his desk. And I am anxious to work with my Senate colleagues on a new version of this bill. This is an important bill. Given the resources, I am confident that Senator MCCONNELL and Senator LEAHY can deliver a bill the Senate will again endorse with wide bipartisan margins.

Mr. BIDEN. Mr. President, I have to say that I am disappointed in the foreign operations appropriations conference report. In my estimation then, and in my estimation now, this bill has two huge flaws: First of all, the bill as a whole is under funded. It simply does not dedicate the necessary monies for our nation's foreign operations.

The Administration has indicated that the President will veto this bill, and I approve that decision. The amount in this bill is nearly $2 billion less than the administration's request. That is unacceptable.

The second major problem is that, not only is overall funding inadequate, two essential programs have either faced draconian cuts, or have not been funded at all. It is on those programs that I wish to speak.

Perhaps the biggest failure of this bill is that it does not provide the amount that the President requested to support the Middle East Wye River Agreement.

I find it irresponsible that the conference report does not include a single penny to fulfill our commitment to support the agreement. Early in September, Israel and the Palestinian Authority signed an agreement to carry out Wye and to move to final status negotiations.

Just as the peace process is getting back on track, this conference report sends a signal of American retreat from our historic moral and strategic commitments in the Middle East.

The $800 billion in aid missing from the conference report for fiscal years 1999, and the $500 missing form this year's appropriation were requested to support Israel, Jordan, and the Palestinian Authority in critical areas.

In Israel, funds were requested to assist Israel in carrying out its military re-deployments and to acquire anti-terrorism equipment. In the Palestinian Authority, support was requested for education, health care, and basic infrastructure in order to reduce the influence of radical groups that thrive off of economic misery.

In Jordan, support is needed to bolster the new King as he takes bold and risky moves to support peace and aggressively fight terror.

The parties in the region will need to know that we are a reliable partner as they move to the most contentious issues in the peace process. This conference report calls into question our ability to carry out our commitments.

The second failure of this year's conference report is that it does not fund the Expanded Threat Reduction Initiative, an essential part of U.S. efforts to reduce the chances for the proliferation of weapons of mass destruction from the former Soviet Union.

Almost every one of the Department of State budget increases proposed in the Expanded Threat Reduction Initiative has been zeroed out in the conference report. This occurred despite the inclusion in the Senate bill of two floor amendments calling for the conferees to achieve full funding of these program requests. I regret that this message was ignored by the conferees, and Frankly I fear that their action could endanger our national security.

Some of the programs that are unfunded in this bill were to help Russia's biological weapons experts find new fields of work. If we fail to do that, these very same experts could later threaten our crops, our livestock, and our very lives.

Assistance for the Newly Independent States was decreased by 445 million from a Senate passed level that was already $250 million below the Administration's request. While it is unclear where the additional cut would be made, it could reduce existing non-proliferation assistance programs such as the International Science and Technology Centers in Russia and Ukraine. Through these centers over 24,000 former weapons scientists have found jobs in places other than nuclear and biological weapons labs in Iraq and Iran.

The same could be said for the Civilian Research and Development Fund. This foundation provides training for Russians who are former weapons scientist so that they can embark in non-military careers. Not only the United States, but the entire world has benefited from this.

I accept the fact that Congress has to make some tough choices in all of our appropriations. There are literally a dozen more programs in this bill that I would like to see increased funding for. We cannot designate as much money as we would like in all the areas we would like. However, I believe that the programs I have outlined above are crucial to the effective execution of United States foreign policy.

By ignoring them, we are creating serious problems which may very well be costly to correct. Diplomacy and assistance are cheap compared to the price we pay when they fail. When the Senate passed its appropriation bill in June, I hoped that these flaws I have just discussed would be corrected. They were not. As it stands, I cannot support the conference report.

Mr. SMITH of New Hampshire. Mr. President, the foreign operations conference report includes a major concession to the Clinton administration—it strikes language which attempted to stop U.S. taxpayer dollars from being used to promote abortion abroad, imposing an imperialistic, left-wing, pro-death agenda on the nearly 100 countries who have, for deeply-held religious reasons, upheld the sanctity of human life and who believe that life, including lives of the innocent and unborn, are sacred in God's eyes.

Regrettably, the House-passed language, the Smith-Barcia Foreign Families Protection amendment, while not cutting funding for the international population assistance, would have at least restored the prohibition on using these funds to support foreign organizations that lobby to repeal or undermine the laws of foreign governments against abortion. Since the Senate refused to negotiate with the House on a proposed compromise on the issue, as a result, the conference report on foreign operations has no pro-life safeguards. The Senate conferees did not accept the House's proposal to reinstate last year's ban on funding for the U.N. Population Fund in exchange for dropping the Foreign Families Protection Act Amendment.

The UNFPA has cooperated with the Peoples Republic of China in implementing coercive population control including forced abortion and sterilization. There are examples of poor people around the world being coerced into sterilization and fertility experimentation, sometimes, as was reported in Peru, by the threat of withholding food aid.

More recently, in Kosovo, Concerned Women for America reported that while refugees sought water, clothing and other basic necessities, the UNFPA and Planned Parenthood delivered what they considered ''life-saving supplies''—working with the UNHCR, whey dispatched ''emergency reproductive health kits'' for about 350,000 people for a period of 3 to 6 months.

These kits included oral and indictable contraception kits, sexually transmitted disease kits, intrauterine device (IUDs) kits, complications of abortion kits, vacuum extraction equipment and, condoms (UNFPA press release, 4/8/99).

The U.S. State Department estimates that of the 350,000 refugees, 10 percent are either pregnant, breastfeeding or caring for very young infants. Also, Kosovo has one of the two highest total fertility rates in Europe, making it a prime target for population controllers like UNFPA (Planned Parenthood press release, 4/13/99).

UNFPA and Planned Paenthood are putting these women at risk. CWA found a doctor with 10 years experience with the UNHCR, as well as numerous non-governmental organizations (NGOs), who was willing to testify without attribution about the danger of providing birth control pills and emergency ''contraception'' to refugee women. This doctor worked extensively within the U.N. and externally to prevent distribution of emergency ''contraception'' which causes chemical abortion in the early stages of pregnancy and manual vacuum aspirators used to perform abortions.

The doctor confirmed the fact that refugee women who use birth control pills are vulnerable in two specific ways. First, they do not receive information to make an informed decision, nor are they guaranteed a doctor's continuing care.

Vacuum aspirators included in the UNFPA kit are particularly dangerous. These manual devices cannot be sterilized, risking fatal infections, and can puncture the uterus. Rather than life-saving, these devices can be life-threatening.

The UNFPA and PPFA are exploiting these desperate, vulnerable refugee women. They are attempting to indoctrinate them with the U.N.'s radical notions about sexuality and abortion. Abortions may only intensify their physical and emotional distress. Post-abortion syndrome (PAS) is a type of Post-Traumatic Stress Disorder, once believed only to affect war veterans.

This year, unsuccessfully, an effort was made in the House to transfer funds from ''international family planning'' programs to child survival programs—this is based on the pleas of many respected people in the children's health field, including health ministers in Africa, who have begged the West for basic medicines like penicillin and rehydration salts. They have said their shelves are overflowing with condoms, while they watch their infants and young children die from basic maladies that would never go untreated in the industrialized world. Their calls have gone unheeded. The Clinton Administration's foreign policy priority is to ensure that women can abort their babies, not to ensure that mothers who give birth can properly care for their children.

The fight is not over—the issue of protecting women and their unborn children and of respecting the pro-life, pro-family laws of foreign nations will resurface this year.

Mr. DODD. Mr. President: I rise in opposition to the adoption of H.R. 2606—the fiscal year 2000 foreign operations conference report.

Let me say at the outset that it is very unusual for me to oppose an appropriations bill of this kind, but I do so today because I believe that if it becomes law it will jeopardize United States interests globally. Why are our interests threatened? They are threatened because this bill does not provide the wherewithal to the Clinton administration so that it can effectively carry out United States foreign policies and programs. Many programs being funded by this bill are at drastically reduced levels. The total dollar value of the appropriations contained in this conference report are approximately $2 billion below levels requested by the President.

The conferees apparently did not think that the Middle Peace Process is of critical interest to the United States because nowhere can a find funding in support of the implementation of the Wye Agreement—clearly a critical component in ensuring that the peace process more forward. I believe that this omission is extremely unwise and is reason enough alone for Members of this body to oppose it.

But that is not the only problem with this bill. Let me discuss some of the other deficiencies as well.

First, Mr. President, we all know how much bipartisan support the Peace Corps engenders in both Houses of Congress. Peace Corps volunteers are our ''citizen diplomats'' abroad. The lasting good will and friendship that results from American men and women serving as volunteers for two years in countries that need and want their presence is immeasurable. No one that I know of has any complaints about the organization. Yet, this bill would short change its fiscal year 2000 budget by $35 million, making it nearly impossible for the Peace Corps to meet its congressionally mandated goal of placing 10,000 volunteers in the field early in the next decade.

Nor does this conference report contain a penny for use by the Clinton administration as its initial responses to the tragic natural disasters that have just occurred in Turkey and Taiwan. Surely we could have provided some start up monies to assist our friends in their hour of need. Similarly, money was not included in this bill to assist the people of Kosovo begin the painful process of rebuilding after the devastation wrought by Serbian forces earlier this year.

The phrase ''penny wise and pound foolish'' comes readily to mind as one reviews the provisions of this bill. Let me highlight some of the most important deficiencies as I see them: $175 million reduction in loan programs designed to help the poorest nations address their critical needs; $157 million reduction in global environmental protection programs; $26 million below the Senate passed appropriated amounts for the U.S. Export Import Bank and additional unnecessary Congressional notification requirements that could delay approval of export credit applications; $85 million reduction in debt relief for the poorest countries; $200 million reduction in regional democracy building and economic development programs for Africa, Latin America and Asia; $297 million reduction in democracy and civil society programs in the independent states of the former Soviet Union; and $20 million reduction in funds to support the Korean Peninsula Development Organization and seriously restrictive legislative conditions which jeopardize important ongoing U.S. diplomatic efforts to contain the North Korean nuclear threat to the Korean Peninsula.

This is certainly not an exhaustive listing of all the problems I have with this bill, but merely the highlights, or low lights as the case may be, of the serious inadequacies with the foreign operations conference report. Having said that I believe that the issues I have cited are more than enough reason for members to vote against this legislation and I urge them to do so.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I am sorry my friend and colleague, the Senator from Vermont, is not going to be able to support the bill. But I do want to commend him for his ongoing effort with regard to demining. The Leahy War Victims Fund has had a dramatic impact not only on rehabilitation but also on safety; in addition, Senator LEAHY's interest in and devotion to the subject of infectious diseases. He has single-handedly driven the funding levels up. The surveillance, control, and treatment have improved throughout the world because of his commitment.

I commend him for that.

Mr. President, it is my understanding that both sides are interested in having this vote at noon. I am prepared to yield back my time, if Senator LEAHY is, and we will proceed with the vote.

Mr. LEAHY. Mr. President, my understanding is that no one else on this side wishes to speak.

In that case, I yield our time.

Mr. MCCONNELL. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded.

The yeas and nays have not be ordered.

Mr. LEAHY. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative assistant called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—51

Abraham	Enzi	Mack
Allard	Fitzgerald	McCain
Ashcroft	Frist	McConnell
Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Brownback	Grams	Roberts
Bunning	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Sessions
Chafee	Helms	Shelby
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner

NAYS—49

Akaka	Bingaman	Byrd
Baucus	Boxer	Cleland
Bayh	Breaux	Conrad
Biden	Bryan	Daschle
Dodd	Kerrey	Reid
Dorgan	Kerry	Robb
Durbin	Kohl	Rockefeller
Edwards	Landrieu	Sarbanes
Feingold	Lautenberg	Schumer
Feinstein	Leahy	Smith (NH)
Graham	Levin	Smith (OR)
Hagel	Lieberman	Torricelli
Harkin	Lincoln	Voinovich
Hollings	Mikulski	Wellstone
Inouye	Moynihan	Wyden
Johnson	Murray	
Kennedy	Reed	

The conference report was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

VOTE ON AMENDMENT NO. 1889

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 1889 to amendment No. 1851. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—54

Abraham	Fitzgerald	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Chafee	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Enzi	Mack	Warner

NAYS—46

Akaka	Feingold	Lincoln
Baucus	Feinstein	McCain
Bayh	Graham	Mikulski
Biden	Harkin	Moynihan
Bingaman	Hollings	Murray
Boxer	Inouye	Reed
Breaux	Johnson	Reid
Bryan	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Cleland	Kerry	Sarbanes
Conrad	Kohl	Schumer
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Lieberman	

The amendment (No. 1889) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I ask unanimous consent that the next order of business be 9 minutes for the Senator from North Carolina, Mr. HELMS. I

further ask consent that Senator LAUTENBERG be recognized to offer a second-degree amendment and there be up to 1 hour for debate equally divided in the usual form. I further ask consent that upon the use or yielding back of the time, the vote on the Lautenberg amendment be stacked for consideration later today.

The PRESIDING OFFICER (Mr. BUNNING). Is there objection?

Mr. WELLSTONE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I withdraw the request. Why, I don't understand, but I will withdraw the request because it is faster to do that than to find out what the reason is why we can't stack. I say, by way of explanation, if we stack the votes, we can move more expeditiously to dispose of the Senate's business. But I hear an objection to that.

I ask unanimous consent that after Senator HELMS is recognized for 9 minutes, that we proceed to Senator LAUTENBERG's second-degree amendment for 1 hour, equally divided, and that the Senate vote in relation to the Lautenberg second-degree amendment without intervening action.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. Might I add, before proceeding to Senator HELMS' recognition, Senator HARKIN and I are in agreement, as are others managing the bill, to try to get time agreements for 30 minutes equally divided. If we are to move the bill, we need to do that. I think it is not inappropriate to say that we can get as much done in 30 minutes equally divided as we can with an hour equally divided. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I concur with the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized for 9 minutes.

COMPREHENSIVE TEST BAN TREATY

Mr. HELMS. Mr. President, as the Senate proceeds toward its still-scheduled debate on the Comprehensive Test Ban Treaty, I am confident that the record will show most former senior U.S. government officials remain strongly opposed to Senate ratification of the CTBT.

The Senate—and the American people—will hear from many distinguished officials in the coming days, as they speak out against the CTBT. Of course, the Clinton Administration will try to counter that other well-known people support the CTBT, but those who support ratification of this proposed total nuclear test ban are a distinct minority.

In looking over the record, however, I found that many of the very people the Clinton Administration claims now support such a permanent and total nuclear test ban treaty in fact explicitly rejected it when they served in the U.S. Senate and in uniform.

They argued at that time (a) that such a test ban was unverifiable, and (b) that the U.S. needs to preserve the ability to conduct nuclear tests if the American people are to be assured of the safety and reliability of our nuclear weapons.

Make no mistake: These are all great Americans, whom I admire and respect, who served their country with distinction. In calling attention to their statements of the past for the record today, I certainly imply no disrespect.

To the contrary, I hope the record will reflect their judgements at that time because I believe that those judgements on a zero-yield test ban were right back then—and those judgements are still right today.

For example, as a U.S. Senator, our distinguished former colleague, Bill Cohen of Maine, was a leading light on defense issues in the U.S. Senate. Indeed, he vigorously objected to the termination of nuclear testing when he served here as a U.S. Senator. He objected, he said, because the termination of nuclear testing would undermine efforts to make U.S. weapons safer.

Throughout the months of August and September 1992, Senator Cohen vigorously fought efforts by Senators Mitchell, Exon, and Hatfield to kill the United States nuclear test program.

Here is a sample of Senator Cohen's 1992 views as expressed on the Senate floor on September 18 of that year seven years ago:

> We have made, in fact, remarkable progress in negotiating substantial reductions in nuclear arsenals. While we have made substantial reductions, we are not yet on the verge of eliminating nuclear weapons from our inventories. We are going to have to live with nuclear weapons for some time to come, so we have to ask ourselves the question: Exactly what kinds of nuclear weapons do we want to have during that time?

Senator Bill Cohen declared further seven years ago:

> . . . [W]hat remains relevant is the fact that many of these nuclear weapons which we intend to keep in our stockpile for the indefinite future are dangerously unsafe. Equally relevant is the fact that we can make these weapons much safer if limited testing is allowed to be conducted. So, when crafting our policy regarding nuclear testing, this should be our principal objective: To make the weapons we retain safe.
>
> . . . The amendment that was adopted last week . . . does not meet this test . . . [because] it would not permit the Department of Energy to conduct the necessary testing to make our weapons safe.

Similarly, Vice President AL GORE likewise adamantly opposed a ''zero-yield'' test ban—i.e., one that would ban all nuclear tests—as a United States Senator, on the grounds that such a ban was unverifiable.

Indeed, on May 12, 1988, Senator GORE objected to an amendment (offered to the 1989 defense bill) because it called for a test ban treaty and restricted all nuclear tests above 1 kiloton.

A 1 kiloton limit ban, Senator GORE said at that time, was unverifiable. At Senator GORE's insistence, the proposed amendment was modified to raise the limit for nuclear testing from a 1 kiloton limit to a 5 kiloton limit.

For the RECORD, here's what Senator GORE's position as taken on the Senate floor in 1988:

> Mr. President, I want to express a lingering concern about the threshold contained in the amendment.
>
> Without regard to the military usefulness of lack of usefulness of a 1 kiloton versus the 5 kiloton test, purely with regard to verification, I am concerned that a 1 kiloton test really pushes verification to the limit, even with extensive cooperative measures. . . . I express the desire that this threshold be changed from 1 to 5.

If Senator GORE argued on the Senate floor that a 1 kiloton test ban was unverifiable, surely the zero-yield—ban—i.e. a ban on all nuclear tests would be equally unverifiable.

President Clinton has argued that several former Chairmen of the Joint Chiefs of Staff strongly back his call for a Comprehensive Test Ban Treaty banning any and all nuclear tests.

It's interesting that their statements, when they were still in uniform, however, raise doubts about Administration's claims that they vigorously support the CTBT. Consider, for example, what General Colin Powell, then the Chairman of the Joint Chiefs, said on December 1, 1992:

> With respect to a comprehensive test ban, that has always been a fundamental policy goal of ours, but as long as we have nuclear weapons, we have a responsibility for making sure that our stockpile remains safe. And to keep that stockpile safe, we have to conduct a limited number of nuclear tests to make sure that we know what a nuclear weapon will actually do and how it is aging and to find out a lot of other physical characteristics with respect to nuclear phenomenon. . . . As long as we have nuclear weapons, I think as good stewards of them, we have to conduct testing.

General Powell previously had made much the same declaration during a Senate hearing on September 20, 1991:

> We need nuclear testing to ensure the safety, surety of our nuclear stockpile. As long as one has nuclear weapons, you have to know what it is they will do, and so I would recommend nuclear testing.

What General Powell said was as true back then as it is today.

Similarly, Admiral William Crowe also opposed the Comprehensive Test Ban Treaty while he was Chairman of the Joint Chiefs of Staff. In testimony before the Senate Foreign Relations Committee on May 5, 1986, he stated:

> [A comprehensive test ban] would introduce elements of uncertainty that would be dangerous for all concerned.

He further declared:

> I frankly do not understand why Congress would want to suspend testing on one of the most critical and sophisticated elements of our nuclear deterrent—namely the warhead.

General David Jones likewise stated, during his confirmation hearing before the Senate Armed Services Committee:

I would have difficulty recommending a zero test ban for an extended period.

Among the General's reasons for opposition were, according to a May 29, 1978 press account, that the CTBT

is not verifiable, and that U.S. stockpile reliability could not be assured.

Numerous press accounts from 1994 and 1995 indicated that General John Shalikashvili maintained strong reservations regarding a zero yield test ban, and made clear that he favored maintenance of the ability to conduct low-yield testing under any negotiated treaty.

Indeed, these comments by these former Chairmen of the Joint Chiefs—while in uniform—strongly echo the current views of other former Chairmen of the Joint Chiefs, such as Admiral Tom Moorer and General John Vessey, Jr., both of whom today strongly oppose the CTBT.

Again, I must emphasize that all of these men are distinguished Americans whom I greatly respect and admire.

Indeed, my point today is simply to show that the arguments of Senators Cohen and GORE, and Chairmen Powell, Crowe, Jones and Shalikashvili were right then—and they are still right today:

Nuclear testing is vital to maintaining the safety of our nuclear weapons and the reliability of our nuclear deterrent.

A ''zero-yield''—i.e., a total and complete—nuclear test ban is unverifiable.

A Comprehensive Test Ban Treaty that bars any and all nuclear testing is dangerous for the American people, and I am confident that the United States Senate will not ratify such a dangerous treaty.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 2267 TO AMENDMENT NO. 1851

(Purpose: To reject indiscriminate across-the-board cuts and protect Social Security surpluses by closing special interest tax loopholes and using other appropriate offsets)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2267 to amendment No. 1851.

At the end of the amendment add the following:

SEC. ___. PROTECTING SOCIAL SECURITY SURPLUSES.

(a) FINDINGS.—The Senate finds the following:

(1) The Congressional Budget Office has projected that Congress is headed toward using at least $19,000,000,000 of the social security surplus in fiscal year 2000.

(2) Amendment number 1851 calls for across-the-board cuts, which could result in a broad-based reduction of 10 percent, taking into consideration approved appropriations bills and other costs likely to be incurred in the future, such as relief for hurricane victims, Kosovo, and health care providers.

(3) These across-the-board cuts would sharply reduce military readiness and long-term defense modernization programs, cut emergency aid to farmers and hurricane victims, reduce the number of children served by Head Start, cut back aid to schools to help reduce the class size, severely limit the number of veterans served in VA hospitals, reduce the number of FBI and Border Patrol agents, restrict funding for important transportation investments, and limit funding for environmental cleanup sites.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that instead of raiding social security surpluses or indiscriminately cutting defense, emergency relief, education, veterans' health care, law enforcement, transportation, environmental cleanup, and other discretionary appropriations across the board, Congress should fund fiscal year 2000 appropriations, without using budget scorekeeping gimmicks, by closing special-interest tax loopholes and using other appropriate offsets.

Mr. LAUTENBERG. Mr. President, obviously, I went in a slightly different direction as we introduced our second-degree amendment because I wanted the clerk to particularly read some of the implications of what it is we are facing if we adopt the Nickles amendment.

My amendment is a substitute for the Nickles amendment. It is very simple. It expresses the sense of the Senate that the Congress must not permit raiding Social Security surpluses nor indiscriminately cut defense, emergency relief, education, veterans' health care, law enforcement, transportation, environmental cleanup, and other discretionary appropriations across the board. Instead, we should fund fiscal year 2000 appropriations—I point out that the year began October 1—without using budgetary gimmicks by closing special interest tax loopholes and using other appropriate offsets.

In my view, this is a much more rational and appropriate way to approach the budget. Deep across-the-board cuts are a bad way to do business. They will prove extremely unpopular. Americans didn't send us to Washington to simply use a meat ax approach to governing. They want us to do it thoughtfully. They want us to go after waste and inefficiencies, to use our judgment and support essential programs such as education. The Nickles amendment, by contrast, puts the budget process on automatic pilot. It would cut indiscriminately.

I read from the text of the Nickles amendment where they say in the sense-of-the-Senate amendment that ''Congress should ensure that the fiscal year 2000 appropriations measures do not result in an on-budget deficit''—that on-budget is excluding Social Security trust funds. They put parentheses around it—''by adopting''—this is the solution they offer—''an across-the-board reduction in all discretionary appropriations sufficient to eliminate such deficit if necessary.''

The language is quite clear. But to further clarify, it says cut these programs—the ones I talked about—cut veterans' health benefits, cut educational benefits, cut law enforcement, cut FBI, cut border guards even though our border is saturated by illegal immigration. And we ought to make an orderly process about that.

The Nickles amendment makes no distinction between critical priorities such as education, defense, and lower priorities such as corporate subsidies or pork barrel spending.

There is no need for a meat ax approach. The Republicans' own tax bill proposed to close various tax loopholes. Now that the bill has been vetoed, why not use some of the same loopholes to help protect Social Security, to prevent potentially painful cuts in education and other priorities?

Why not search for waste from other Government programs? How many of us have talked about that waste as we campaigned for office? Shouldn't we go after that before we take money away from our schools or our Armed Forces?

My amendment does not specify the offsets we should adopt, and it in no way endorses raising income taxes on ordinary families, but it does say we have to treat the budget candidly.

One of the things we should all be alerted to—the public in particular, but certainly we who are going to vote on this—it says: ''GOP Using Two Sets of Books,'' in a commentary by the Wall Street Journal of July 27:

Republicans are double-counting a big part of next year's surplus, papering over the fact that their proposed tax cuts and spending bills already have exhausted available funds.

If it were up to me, as I said earlier, I would ask the tobacco industry to compensate the taxpayers for the damage they have caused and help pay for the tobacco-related diseases that cost us some $20 billion a year. If we could get that $20 billion a year, we wouldn't have to be faced with the prospect of cutting Social Security surpluses by some $19 billion.

Once again, my amendment doesn't endorse that particular approach, or any specific provision. It just says: Let's be honest with the American people, and let's find real offsets.

I will tell you what I learned from the Congressional Budget Office in a letter to one of my staff people:

Our estimates of the outlays available to be cut is $351.7 billion. Dividing the projected deficit by the available outlays results in an across-the-board cut of 5.5 percent.

Across-the-board cuts—that is all of those programs that we have discussed several times.

We shouldn't use gimmicks. We shouldn't use that kind of treatment, and not indiscriminate, across-the-board cuts which drastically slash funding for teachers, military personnel, veterans, and other priorities. In fact, we have an endorsement of

that view, I think it is fair to say, when Appropriations Committee chairman BILL YOUNG of Florida says to cut 2.7 percent of all discretionary spending would result in cuts of about $7 billion from defense which would wipe out the pay increase that lawmakers recently provided for the military.

We all know the military is having a problem recruiting new members and getting new recruits to join the various branches. Would we want to discourage that effort even though we are having a problem filling those important positions that we must have to protect ourselves? I think not.

Mr. President, pretty simply, I hope my colleagues will support the amendment.

I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, several comments: First, I commend the Senator from New Jersey for at least a more, in my judgment, candid discussion of this debate than we heard last week because the resolution that he offers says the Congressional Budget Office has projected that Congress is headed toward—headed toward doesn't mean they are there—whereas last week in the debate you would have thought it was a fait accompli.

The point is, we don't know if any funds or spending levels would have been at such a level that they would have affected Social Security. No one knows that now. Everybody is trying to avert that. Here comes Senator NICKLES' amendment which says if we don't avert that, it would relate to across-the-board cuts. I think all of us understand that the number, if any of it applies to Social Security, would never be of the magnitude discussed in the amendment by the Senator from New Jersey.

The point I wish to make is that it is a nebulous amendment because it says it is headed for—in other words, we don't know. But then they draw the conclusion that it might result in reductions of 10 percent across the board. We heard 1 percent. If it were around $5 billion, it would be 1 percent. If it were $19 billion, it would be probably around 5 percent. To get to 10 percent, we would probably have to be at about $40 billion.

The point is, this is a very imprecise amendment about something. It is like an attempt to be a crystal ball. What are the appropriators, what is the Senate, and what is the Congress going to ultimately do with the pressure?

The amendment also has a technical flaw because it suggests in the language that it would cut emergency aid to farmers and hurricane victims when across-the-board cuts do not apply to emergency funding—something the authors may want to review.

Senator NICKLES said if spending is such that it utilizes some Social Security receipts, they will require an across-the-board cut. I think the American people can understand that.

This resolution says we could cut spending, which of course is what Senator NICKLES suggests ought to happen as well; but if that doesn't work, we will just raise taxes. The Senator from New Jersey points out these are taxes that would not affect ordinary families. All taxes affect ordinary families. There is no such thing as a corporate tax. It really doesn't exist. Corporate taxes are expenses to the corporation. The ladder consumers buy, the loaf of bread consumers buy, the gasoline consumers buy, on anything consumers buy, consumers pay all corporate taxes.

He talks about the possibility of taxing tobacco companies yet again after the settlement. Who pays any charge to the cost of the tobacco? The people who buy it, the ordinary people who use the product.

The major distinction has at least been reduced between the two bills. They both say ''if,'' ''could,'' ''maybe,'' but the principal distinction is that the Senator from Oklahoma says if any of those funds come from Social Security receipts, they have to be replaced by an across-the-board reduction, which is an incentive to reduce spending so that doesn't happen; and the Senator from New Jersey says there is a major incentive to reduce expenditures to keep it from happening, but if it does, we will raise taxes; we will take more out of everybody's pocket. That is the principal distinction.

I am pleased the debate has eliminated both suggestions that anyone really understands what that amount, if any, might be. I am pleased the amendment of the Senator from New Jersey acknowledges that.

It boils down to two different approaches about what to do if it were to happen. The Senator from Oklahoma says we would have across-the-board spending reduction; the Senator from New Jersey says we would raise taxes. He does admonish it would not be a tax that would affect an ordinary person. I point out that all corporate taxes are paid for by all consumers.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I want to continue to use some of the time we have reserved. How much time remains?

The PRESIDING OFFICER. The Senator has 21 and a half minutes.

Mr. LAUTENBERG. Mr. President, I listened to our colleague from Georgia with interest. He said we were not too specific about things. But we are specific about one thing, and that is we do not want to touch Social Security.

A long time ago, someone said: Touch not a hair on that old gray head. I have the color hair that evokes thoughts of Social Security, and I am eligible to be a recipient. I know how important it is, as does everybody here. I do not want to diminish everybody else's view. They all know how important it is.

Let's start with what is in the Nickles amendment. It says that Congress should eliminate any on-budget deficit by adopting an across-the-board reduction in all discretionary appropriations, if necessary. All discretionary appropriations —that could mean anything: Farmers' aid, Veterans Administration, FBI, drug enforcement, Coast Guard, you name it. All these programs would have to suffer deep cuts under this amendment because, according to CBO, the Senate has already approved legislation that would use $19 billion of Social Security funds. And we're likely to use even more Social Security funds when we conference with the House, which is proposing higher spending levels, and when we provide relief to hurricane victims and others suffering from genuine emergencies. Mr. President, before I go further, I see my colleague from Illinois on the floor. I yield 5 minutes to him, and then we will be able to come back to our point.

Mr. DURBIN. Mr. President, those who are trying to follow what is happening on Capitol Hill at this moment in time should be aware of some of the basics. Our calendar year for budget purposes ended on October 1. We started a new year. So, ''happy new year'' to all who are following this debate. Unfortunately, we do not have our spending bills passed.

In fairness, neither Democrats nor Republicans have a very good record of passing these bills on time. But I think most people would concede, we are at a moment in time in the history of this institution where we have never faced such chaos as we do today. There does not seem to be any exit strategy. People are getting too comfortable here. Instead of thinking about ending this session in a responsible way and going home, we are still jousting back and forth politically, and that is sad.

What is even sadder is the situation in which we find ourselves today. After all the time we spent on the budget and after all the suggestions about how to resolve it, we do not have anything near a dialog between the President and the leaders on Capitol Hill. Some say they do not want the President to come up to Capitol Hill because that may not be a good environment for the debate. Some say the Republican leaders are afraid to go to the White House because they have had their pockets picked there in the past. I suggested we set up folding chairs on The Mall and let them meet there, let the whole world watch, and let's see if we can bring it to a conclusion.

I think the American people ought to pay attention to this debate because now what we hear from the Republican

side of the aisle is that in order to exit this place, they want to have an across-the-board cut in all the appropriations bills. That may sound eminently fair: Everybody suffers. But keep in mind, some suffer more than others. When you start cutting back in programs such as Head Start and you have the kinds of cuts we need to balance the budget, 43,000 children are taken out of this program where we try to get them ready for school. How many people do you want the cut at the Federal Bureau of Investigation? How many people do you want to cut from the border guards to stop drugs from coming into the United States?

These are legitimate questions, and spending committees make these decisions as they build their budget bills. Now, in a effort to get out of town, we hear from the Republican side of the aisle, ''Let's just have an across-the-board cut,'' and I think that is sad. We have had entirely too much gimmickry in this budget debate already. At one point in time, one of the Republican Senators suggested we should amend, not a bill but the calendar, not the legislative calendar but the real calendar; let's create a 13th month in a year. We were going to have a contest to see if we could come up with a name for it in an effort to at least have some bipartisan agreement. But after it did not pass the laugh test, it was dropped as an idea.

Then last week, the Republican leaders in the House said: We'll take the millions of Americans, working Americans, who get some tax relief called the earned-income tax credit, and let's just delay paying those people. That was a suggestion from the House Republican leaders. That did not even pass the George W. Bush compassionate conservative test. He announced to his party and America: Don't do that. You have to find a way out of this short of hurting people who are working for a living and struggling to get by.

It seems as if every week there is a new notion, the latest one being this across-the-board cut. Let's try to get to the bottom line here. You will hear us toss out CBO, OMB, on and on. We love to do that in Washington. The Congressional Budget Office comes up with some estimates on spending and the economy. The Office of Management and Budgeting does the same. Sometimes they agree; sometimes they don't. It is a calculated guess. But they both seem to agree at this point in time that we will be borrowing money from the Social Security trust fund in order to bring this to a conclusion. I don't want to see that happen. But it has happened for years and years and years, and this year we would borrow less than we usually do. I hope we do not have to borrow any, when it is all said and done.

President Clinton came to us and said: Here are some offsets. Here are some things you can do that will, in fact, provide the revenue we need for us to leave on time.

I think some of them were reasonable. Let me give you an idea. One of them suggested a 50-cents-a-pack tobacco tax. I know from serving in this body, my colleagues are not going to warm up to that idea. I support it. Yes, it is true, the Senator from Illinois just said he supports a tax increase on tobacco products, because when the price goes up, the kids stop buying them. When kids stop buying them, they start weaning themselves from an addiction that can ultimately lead to death and disease—50 cents a pack, $6 to $8 billion a year, money that can be spent for education, for health care, for priorities in this country. I think the President is on the right track.

So I sincerely hope, before we resort to cutting such things as education and FBI, border guards, military personnel—personnel staffing reductions—we ought to step back for a minute and see if there is not some common ground left here.

The most amazing thing about this across-the-board cut debate is that the ink is hardly dry on the Republican proposal that was offered, and then thrown off the table, to give America a $792 billion tax cut. You may remember it. It has only been a few weeks ago. We had so much money, we were awash in money, we were going to start giving it back in huge sums. Thank goodness the American people and many leaders in Washington said wait a minute, take another look at it.

The PRESIDING OFFICER. The 5 minutes of the Senator has expired.

Mr. DURBIN. I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield the time to the Senator from Illinois.

Mr. DURBIN. So when the proposal was made by the Republican side for the $792 billion tax cut, many people said: Wasn't it 24 months ago that this Senate floor was consumed in a debate about amending the Constitution of the United States to pass a balanced budget amendment to stop the deficits once and for all, to bring discipline by the Federal court system imposing limitations on spending?

Yes, it was a little over 2 years ago. That is what we were talking about.

Then the proposal came from the Republican side: We have so much money now that we can give away a massive tax cut, primarily to the wealthiest people in this country.

The idea was rejected by Alan Greenspan who has no political ax to grind and wants to see the economy move forward. The idea was rejected by economists, as well as leaders from the President on down, and most important, it was rejected by the American people.

A few weeks later, the same Republican Party that had this massive tax cut tells us we are in desperate straits as to this year's budget, and we have to do across-the-board cuts in law enforcement, education, and health care. That tells us, frankly, the captain on the ship does not know where he is headed. The captains, in these cases, are the leaders in the House and the Senate on the Republican side.

I will tell you where I think they should be heading, and I think the American people expect this to happen. We have to end this in a sensible fashion. We have to make certain when it is done we meet our basic obligations—obligations to kids and school, obligations to those who depend on us for the very basics, obligations to Social Security to make sure it is strong beyond the year 2032, and as for Medicare, beyond the year 2015. These should be viable systems. That is our first obligation.

It is our obligation, as well, to provide for the basics of this country—the national defense, to make sure the men and women in uniform are treated humanely and they have not only good assignments but are adequately compensated for the service they give to our country.

The list is pretty obvious and most American families would agree with them, but we have not gotten the dialog underway between Democrats and Republicans on Capitol Hill. I sincerely hope this idea of an across-the-board cut is rejected. I believe the Appropriations Committee has to make priority judgments on spending. The President's offset package will save us some money.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. I hope this happens soon. I yield the floor.

Mr. LAUTENBERG. Mr. President, I yield to the Senator from Nebraska—how much time does the Senator need, 5 minutes?

Mr. KERREY. Five or 6 minutes.

Mr. LAUTENBERG. Five or 10. I prefer he not take the ''or''; take the 5 or 6 minutes, please. I yield 6 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 6 minutes.

Mr. KERREY. Mr. President, I ask the distinguished Senator from Georgia and the Senator from New Jersey if I can split my time because though I do support the amendment of the distinguished Senator from New Jersey, I have an unusual argument. It may sound as if I am both for it and against it. I appreciate him yielding time to me.

It is terribly important we do save Social Security, but my frustration in the entire Social Security debate is to date, what has happened is the Social Security issue has prevented us from increasing discretionary spending and getting a budget that meets the needs of the American people. It has prevented us from doing a tax cut of any kind, whether it is $300 billion or $500 billion or $700 billion. It has prevented us from doing Medicare reform. It locked us up in a box.

We cannot seem to get anything done because we are not willing to fix Social

Security. We want to have the issue, but when we get down to the details of the problem, it is not an easy problem to solve because we basically—not basically—we have a liability on the table that is about 33 percent larger than what current taxes will fund. That is the problem.

For 150 million Americans under the age of 45, that means they are going to face a benefit cut of between 25 and 33 percent. Thus, the announcements recently sent out by Mr. Apfel, the head of the Social Security Administration, are not accurate. He is telling people how much money they are going to get if Congress raises taxes. The last time I checked, there is not a single vote in this body to raise payroll taxes. If that is the case, it is likely to be every beneficiary under the age of 45 is going to be looking at a pretty substantial benefit cut. That is the problem we have to address.

There are a number of legislative proposals that have been introduced, but, again, relevant to this debate, you would think everybody is about to fix Social Security. The lockbox does not fix Social Security. All it does is use the payroll tax to pay down the debt. After having used the payroll tax to keep the deficit low for 16 years, we are now saying to Americans who get paid by the hour: You get the pleasure of reducing all the debt.

For the median family of $37,000 a year, they will pay about $5,500 in payroll taxes versus $1,300 or $1,400 in income taxes. It is not, in my view, a very fair transaction.

If we enact Social Security legislation, it could be a very good transaction because we could do tax reduction for those families. We could help them on the discretionary side helping their children go to college by doing some things as well to make certain their kids get a good education in our K–12 system. There are a lot of good things that could occur if we fix Social Security.

There are only 29 Members of Congress who have signed on to any specific legislation at all. I call that to the attention of those who are watching this debate because, again, one would think, given all the interest in Social Security, they were about to pass Social Security reform legislation.

Earlier today, the chairman of the Finance Committee had a meeting in which he was discussing the need to extend some tax provisions, the R&D tax credit most specifically, but also making some changes in the individual alternative minimum tax, a very unfair and pretty heavy tax on working families that have multiple deductions.

We were talking about that, and I suggested to the chairman that the Finance Committee take up Social Security reform; let's mark up the bill. There is a majority on the committee who would vote for a specific piece of legislation. It is not likely we are going to.

As I see it, the Republicans are a little bit distrustful of what the President might do. The President has a proposal on the table that takes $25 trillion of income taxes to extend Social Security solvency for 20 years. Republicans, I believe, have correctly identified that as a mistaken way to sort of fix Social Security.

I am willing to join with Republicans in that regard and hope, as we debate these various proposals, that enthusiasm will grow as a consequence of looking at what is happening to 150 million beneficiaries who will not be eligible for another 20, 30, or 40 years. What happens to them if we do not take action? They are the ones who are going to pay a price. The terrible paradox about that is not only are they going to pay a price with delay, but the lockbox basically says to them: You are going to shoulder the burden for debt reduction until we finally come to grips with this particular problem.

Time is not on our side. The problem does not get easier. If you favor tax increases, the tax increases will be larger the longer you wait. If you favor cutting benefits, the benefit cuts get bigger the longer you wait. If you favor, as I do and a number of us in the Senate, making some modest reduction in benefits but coupling that with increased payments for lower-wage individuals and the establishment of savings accounts that would enable individuals, in combination with a defined benefit program, to actually get more than what is currently promised—with either one of those three proposals, the longer you wait, the more the beneficiaries and taxpayers are going to suffer. It does not get easier for them. It gets harder for them. It may be easier for us as we head to elections, but it is not easier for the American people to watch this debate get locked up over this lockbox issue, seeing who favors saving Social Security the most. It does not benefit the American people for us not to enact legislation that will fix Social Security.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 17 minutes; the Senator from New Jersey has 5.

Mr. SPECTER. Mr. President, I ask my colleague from Oklahoma how much time he wishes.

Mr. NICKLES. If the Senator can give me 5 minutes.

Mr. SPECTER. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. NICKLES. Mr. President, shortly, within the next 10 or 15 minutes, we will be voting on the Lautenberg second-degree amendment. I urge my colleagues to vote no on the amendment. I looked through the amendment. Although it is a sense-of-the-Senate amendment, it should be factual. This is not factual. Amendment No. 1851 calls for across-the-board cuts which could result in a broad-based reduction of 10 percent. That is not true. There is no way in the world it can be 10 percent unless Congress goes on a drunken spending spree. Maybe some people want to do that. We are not going to do that.

You can get into all kinds of discussions using CBO or using OMB.

Further, the amendment says we should do it without using budget scorekeeping gimmicks.

The gimmick is, we are using the administration's scorekeeping. That is a gimmick. Maybe it is wrong, but I have heard many people on the other side say OMB is more accurate than CBO. If you used all CBO numbers, it would be, at most, a 5 percent reduction. So 10 percent does not even belong in this debate. Using OMB scorekeeping, you are talking about 1 percent. I actually believe we will not have to.

I have talked to the chairman of the Appropriations Committee, and he says we can make it. We are talking about spending $500 billion. We are only $5 billion off. That is about 1 percent. We ought to be able to do that.

The Labor-HHS bill we are debating right now has some big increases in some programs. Maybe we could scale back those increases just a little. NIH grows from $15 billion to $17 billion, but the President only requested an increase of $300 million. Does it have to grow by $2 billion?

Education. I have heard some of my colleagues say, oh, those Republicans are cutting education. The bill has a $2.3 billion increase over last year and $500 million more than the President requested. There is a $500 million increase in the bill that is before us dealing with labor.

So my point is, I think we can tighten up a little bit and not have across-the-board cuts. I just mentioned Labor-HHS. Maybe we could also do it in defense; maybe we could do it in a couple of other areas.

But the way I read the Lautenberg amendment, getting around the false statements that it could cut up to 10 percent, it says: ''closing special-interest tax loopholes''—that is another way of saying let's raise taxes—''and using other appropriate offsets.''

If the Senator has the votes to raise taxes, let him try to raise taxes. This Congress passed a tax cut, not a tax increase. The Senator had a chance to offer tax increases. They did not pass. I am just saying maybe he still wants to raise taxes, but that did not happen. The tax cuts were not signed into law. The President vetoed that. So we are not going to get tax cuts.

So I am saying, whatever happens, let's make sure we do not dip into this money of the Social Security surplus. We are saying 100 percent of that should be used to pay down the national debt—100 percent of it. We should not be raiding that money to spend on all these other appropriations bills. That is what I am saying.

I look at the substitute offered by my friend and colleague from New Jersey that says: Hey, let's raise taxes; let's use other appropriate offsets. I do not know what they are. If he has ''other appropriate offsets,'' offer them.

I want to help work with my colleagues to make sure we don't take money out of the Social Security fund. I am willing to do it. We have bills on the floor now where we can do it.

Maybe we should have other offsets for the Labor-HHS bill. Maybe we should have other offsets for other appropriations bills. But if we try to put them all together, let's make sure we do not dip into Social Security money. Let's not do that. We should not do it.

I think this amendment by my colleague from New Jersey says: Well, instead of any cuts in spending, let's raise taxes. I think that would be a mistake. I do not think the votes are there to do it. I do not think it will happen in this Congress.

So I urge my colleagues to vote no on the Lautenberg amendment.

Mr. ROTH. Mr. President, I want to make some brief observations in reference to the debate on the Lautenberg amendment to the Labor/Health and Human Services/Education Appropriations bill for fiscal year 2000. The Senator from New Jersey suggests that there is an aversion to identifying and addressing tax loopholes. I would point out that in the Finance Committee we have worked in a bipartisan manner to identify and address areas of our tax code which are viewed as candidates for change. These measures have raised tens of billions in revenue over the last few years. Some examples in this area include action the committee took to effect the tax treatment of corporate owned life insurance (COLI), liquidating REITs and tax shelter registration requirements.

Indeed, we are required to consistently look for avenues where we can adjust our tax code to enact change going forward. We are faced with just such a situation right now in crafting our so called extender bill. The items we are seeking to go forward with include permanently shielding individuals from the alternative minimum tax—an important item to ensure that our families are able to take advantage of measures designed to advance their education and child care needs. We are looking to create job opportunities with the extension of the work opportunity tax credit, the R&D tax credit and the welfare to work tax credit and to enable working men and women to continue their education both at the undergraduate and graduate level through the employer provided education assistance program. In the environmental area we are looking to continue provisions which enable communities and businesses to address brownfields. I would point out that millions of people benefit from these provisions.

I believe it is possible to craft legislation which will provide for programs which have been identified as priorities—health care for our veterans, education, aid for our farmers, environmental programs and health research. We have worked in the Finance Committee to advance these priorities as well and will continue to do so going forward in a bipartisan manner.

Mr. LAUTENBERG. Mr. President, I ask if the distinguished Senator from Pennsylvania wants to use any of the time available on that side at this time.

Mr. SPECTER. Mr. President, I intend to make comments for a few minutes, and then I will be prepared to yield back the remainder of our time so we can proceed to a vote, if the Senator from New Jersey is prepared to do the same.

Mr. LAUTENBERG. Mr. President, I will use just a couple minutes to respond, and then we will have finished.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I listened very carefully. One of the things that sometimes the public does not understand is, we can disagree on things because it is an honest view of what is taking place. Perhaps our friends on the Republican side would see things one way and we on this side see them another way. But when we talk about OMB and CBO, these are rather arcane acronyms for the public at large. We work with them all the time. They are arcane for us.

But OMB is something that usually is thought to represent the White House view, the administration view, on calculating where we are, our budget—how much we are spending and how much we are taking in. So I guess it is easy to say that those of us who are on the same party side as the White House want to pay attention to what OMB says and those who represent the majority in the legislature—the House and the Senate—want to rely exclusively on CBO—except when it is convenient. This difference is what we are seeing now in talking about whether or not we use OMB scoring.

Our distinguished colleague from Oklahoma said: Well, we want to use some of the scoring the President uses, from OMB. But, Mr. President, they only want to use OMB scoring selectively—only when OMB's numbers make it appear that they are using less of the Social Security surplus.

In court, you are not allowed to do that. I am not a lawyer, but I know lawyers can't pick and choose from the laws of various states when they present their cases, and use only those laws most favorable to their clients. They have to live under the rules of their jurisdiction.

But here in the Congress, the Republican majority wants to use CBO scoring when it suits their purposes, and OMB scoring when it doesn't.

For example, the majority is using CBO's estimate of the non-Social Security surplus. That's because CBO is projecting a $14 billion non-Social Security surplus, whereas OMB's estimate is much lower—$6 billion.

But then when it comes to scoring the defense appropriations bill, all of a sudden the majority wants to use OMB numbers.

In other words, they are using two sets of books.

Mr. President, there may be rare occasions when the majority will truly believe that CBO has erred in their scoring. But that is not what is going on here. This ''directed scoring'' is not based on the merits. The Republicans are simply trying to make it appear that they are spending less than they really are. And that they are using less Social Security surpluses than they actually are.

I also would point out that when the Senator from Oklahoma says, well, they want to raise taxes, let me remind the Senator that when the tax bill was sent to the President, it had $5.5 billion over 10 years of tax increases. So the Republicans themselves have admitted that there are legitimate savings to be had from closing loopholes. But apparently now their position is that there is not a single loophole to be closed in the tax code. Or at least that we should not close any loopholes before we cut education and defense first.

I say, let's take a look at the tobacco industry. Let's try to recover some of the expenses they force us to incur. Let's see if we can't get back the $20 billion a year it costs taxpayers to treat tobacco-related diseases. That by itself would essentially solve our budget problem and allow us to avoid dipping into the Social Security trust fund.

Mr. President, if there is any time left, I yield it back and hope our colleagues will support this sense-of-the-Senate amendment.

Mr. DORGAN. I wonder if the Senator from New Jersey would yield.

The PRESIDING OFFICER. There are only 8 seconds remaining of the time of the Senator.

Mr. LAUTENBERG. I yield the 8 seconds.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am interested in the comment by the Senator from New Jersey about ''he is not a lawyer, but'' with respect to what has been offered on the floor of the Senate. I would suggest that if the Presiding Officer were a judge and was looking for competent evidence, evidence that had a factual basis, the speeches would be much shorter in this Chamber.

One of the things I have been impressed with over the years is the difference in the kinds of assertions—on both sides of the aisle. I am not referring to anything the distinguished Senator from New Jersey has said. But when he talks about the authenticity of representations of fact, this body takes extraordinary liberty in what is represented as fact. When it comes to the numbers, my preference would be—and I know the Senator from New Jersey did not use the expression ''lying

about the numbers,'' it is some budget expert—but I do not think a comment about lying, suggesting untruthfulness, is very helpful.

Mr. LAUTENBERG. Will the Senator yield for a comment?

Mr. SPECTER. I will.

Mr. LAUTENBERG. In my opening comments, I said that we viewed things differently. There was no suggestion of lying or dishonesty. I displayed this because that is what was said by a bunch of experts. I was careful not to accuse any of my colleagues of acting unethically.

Mr. SPECTER. I thank my colleague from New Jersey for that. I walked in a little late and hadn't heard him say that. Maybe he repeated it. I respect the comment that there are different views. But to have a chart about lying, when the matters are subject to widespread disagreements as to how you calculate numbers, I would be very critical of budget expert Stan Collender—not critical of Senator LAUTENBERG—for using the expression ''lying.'' I don't think that advances the ball very much.

I agree with a great deal of what is in the Lautenberg amendment. I agree we ought not cut Head Start, education, VA hospitals, border patrols, transportation, environmental funding, defense funding. I think that is exactly right. But when the Senator from New Jersey comes down to the sense of the Senate and says we should avoid using budget scorekeeping gimmicks, close special interest tax loopholes, and use other appropriate methods, starting with the budget loopholes—the President's budget had more than $20 billion of advance funding. Advance funding, regrettably, has become a commonplace practice that has been engaged in on all sides. I think the precedent and the custom are used generally and not subject to criticism from someone who uses them.

When the President submits a budget with a tax increase of 55 cents a pack on cigarettes resulting in revenues of $6.5 billion, I might support that kind of a tax increase, but it is not money in the bank. It is pie in the sky. It is not even Confederate money. It doesn't exist anywhere. So when the President includes that in his budget, that is hardly a subject to criticize Republicans on grounds of gimmickry.

When the advance funding is accepted that the President uses, and the Republicans have used it, too, but you can't have a tax increase to pay for discretionary programs under the Balanced Budget Act. I don't know if that is a very good provision, but I do know it is the law. I do know it is a law the President signed. So when the sense-of-the-Senate resolution calls for eliminating gimmicks and you have that approach—I won't call it gimmickry; why disparage the administration; just call it ''that approach''—it hardly is valid.

Then the final line on the amendment by the Senator from New Jersey is ''and by using other appropriate offsets.'' I am all for appropriate offsets, but what are they? Where are they?

I think what we have to do—and we are still struggling on this—is to bring our appropriations bills within the caps, not to cut Social Security. I agree totally with the Senator from New Jersey on not touching Social Security. I think that is an accepted conclusion on all sides.

We are struggling with this bill, and we have a lot of amendments yet to be offered. This is a very massive bill, $91.7 billion. This bill was crafted in the subcommittee, the full committee, to take the maximum load that could be borne on this side of the aisle. I may be wrong about that. My distinguished colleague from Oklahoma raises some significant questions with me about the propriety of that amount of money.

Well, we have to really, my metaphor is, run between the raindrops in a hurricane to find a bill which shall be passed by this body and go to conference with the House and can be signed by the President. I had occasion to have a word or two with the President about this bill last night, when we were talking about the Comprehensive Test Ban Treaty. The President doesn't like the bill because it takes out a lot of his programs.

The Constitution gives some authority to the Congress on appropriations—a little more expressed, explicit authority to the Congress than to the President, although the President has to sign the bills, but we do have some standing. So when we disagree with some of the priorities and have added $2.3 billion to education and are $500 million more than the President, we are trying to fit this bill within the budget constraints and within the caps which we have.

While we have dueling sense-of-the-Senate resolutions, I intend to vote against the resolution offered by the Senator from New Jersey. I voted for the resolution offered by the Senator from Oklahoma. I think, in all candor, that neither of these resolutions advances this bill a whole lot. What we have to deal with on this bill are the hard dollars and the specific programs. In the interest of moving the bill ahead, I will inquire how much time I have remaining in anticipation of yielding it back.

The PRESIDING OFFICER. Five minutes 43 seconds.

Mr. SPECTER. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I will use my leader time. I know if we are not out of time, we are just about out of time. I will take a few minutes of my leader time to talk about this amendment.

I rise in strong support of the amendment. I do so in large measure because I believe it reflects the approach that represents the only way we are ever going to bring about a consensus on spending and the budget before the end of this year.

I don't have it at this moment—I have asked my staff to bring it—but the chairman of the appropriations committees in both the House and the Senate have expressed themselves publicly about the impropriety of across-the-board cuts. They have said it is the easy way; it is not the most appropriate way.

Indiscriminate cuts have never been the right way to approach deficit reduction, but these indiscriminate cuts are not the only way our Republican colleagues have suggested we go about meeting our budget objectives in the past. They have used a number of devices. Some of them have been the subject of a good deal of discussion in recent days.

George W. Bush has noted how inappropriate it is to use the EITC, and they appear to have backed away from using the tax credit available to working families. They have suggested accelerating the timing of the spectrum auction by $2.6 billion. They have suggested using two sets of books, one by and for congressional Republicans and one by the CBO. They have suggested declaring LIHEAP an emergency, the Low-Income Home Energy Assistance Program. They have suggested declaring the year 2000 census as an emergency. They have suggested that we raid the Labor-HHS appropriations bill. None of these have worked. Now we find our Republican colleagues suggesting maybe just an across-the-board, indiscriminate cut.

We made some very difficult decisions with regard to defense earlier this year. We made the decision to provide them a pay raise for the first time in some time. Yet it appears our Republican colleagues are now prepared to go back and cut that pay raise and cut the other portions of the defense budget as well. We estimate that if you are going to pay for everything Republicans suggest with across-the-board cuts, a 3 percent cut won't do; the cut required is closer to 10 percent. That is what the Office of Management and Budget says.

So if we cut defense by 10 percent, if we cut all the programs associated with disaster and agriculture by 10 percent, if we cut education by 10 percent, I wonder whether our colleagues want to do that. Yet that seems to be where they have relegated themselves, given the fact that none of their other budget gimmicks have worked. You can't accelerate spending. You can't turn the EITC program into an ATM machine.

You can't use many of the approaches that have been previously proposed by our Republican colleagues. They now know that. However, as I said, congressional Republicans didn't figure this out until after we witnessed the unusual occurrence where they were criticized by one of their Presidential candidates. They will soon find out that across-the-board spending cuts will not work either.

What works is what the senior Senator from New Jersey is now suggesting. What works is that we demonstrate some real leadership and find the offsets necessary to pay for these programs, or find the cuts that may be required to pay for these spending bills—not indiscriminately, but by making some tough choices. That is what we are suggesting. We are going to have to make tough choices in cuts or in offsets, but we have to make the tough choices together—Republicans and Democrats negotiating how to resolve this. We resolved it last year. That is how we should do it this year. In many cases, we have been locked out of the deliberations. Up until now, we haven't been involved in some of the conference committee deliberations.

So I hope everybody realizes that in the end, if we are going to solve this problem, we have to do it in the way the senior Senator from New Jersey is suggesting. Let's solve it by showing some leadership, let's solve it by working together, let's solve it in the age-old traditional way of sitting down and finding the cuts and the offsets required to pay for the commitments we are making in the budget this year.

I am happy to yield to the Senator from North Dakota for a question.

Mr. DORGAN. Mr. President, I wonder if a lot of this debate isn't about some here running for cover on the Social Security issue.

Isn't it the case that several years ago, we had a very substantial debate about amending the Constitution to require a balanced budget? Isn't it true the author of the previous amendment and others were demanding on the floor of the Senate that we write into the Constitution the proposition that Social Security revenues ought to be able to be used to pay for other programs in order to claim a balanced budget? Isn't that the case?

If that is the case, how do they come to us now and say we don't want to use Social Security moneys for the operating budget when, in fact, they wanted to put it in the Constitution 3 years ago?

Mr. DASCHLE. The Senator from North Dakota makes a very interesting point. We had that debate and we had some votes back then. I think the Senator from North Dakota and the Senator from Nevada were the prime sponsors of the amendment that said you cannot use Social Security trust funds for the purposes of general revenues in calculating a balanced budget. I think we lost that amendment fight on a party-line vote. And now, in the last couple weeks, the CBO has already said: Look, Republicans are now acting in a manner consistent with their votes on this constitutional amendment. We now know that, according to CBO, they have already used $18 billion. Those aren't our numbers, those are CBO numbers. They have already done that. But that is the way they voted 3 or 4 years ago when we had that constitutional amendment debate—to use Social Security trust funds for the purposes of general revenues, for the purposes of meeting whatever obligations there may be. So they are consistent.

But I don't think anybody ought to be misled. Now there is some talk about, well, we ought to use across-the-board cuts. They know across-the-board cuts involve deep cuts in defense, in education, in commitments to the environment, and in disaster and emergency assistance. They know that isn't going to happen. The only way it is going to happen is to do what is now on the table. This ought to be a 100–0 vote. Every Republican and Democrat ought to be supporting this amendment because it is the only way we are going to resolve this impasse. The sooner we recognize that, the better.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. DASCHLE. I yield to the Senator from Massachusetts for a question before I yield the floor.

Mr. KENNEDY. In listening to the Senator's explanation of his understanding of what the underlying issue was, and also the Lautenberg proposal, did the 1 percent underlying proposal consider tax expenditures? We have about $4 trillion in tax expenditures. The 1 percent, as I understand it, doesn't take into consideration a review of tax expenditures, where we might be able to find places where we could tighten the belt on some of these tax expenditures, and we would not need these kinds of offsets in the areas of education or health. I wonder whether the Senator's understanding of the 1-percent cut would include a review of tax expenditures.

We have seen some important cutbacks in terms of freezes in various expenditure programs, and we have seen some cutbacks in various programs in the period of the last few years in some important areas of education and health, but we haven't had a real review of these tax expenditures. I wonder whether the Senator—as we come down to this period of time—thinks that issue might be at least something we ought to consider or debate.

Mr. DASCHLE. The Senator from Massachusetts makes a very important point. Not $1 of tax expenditures are on the table in their proposal. What they are suggesting is that we cut education first, that we cut disaster assistance first, that we cut LIHEAP first, that we cut defense first; and only after we have done all of that, I suppose they would assume we might look at tax expenditures. But there is not a word about looking at the $4 trillion of possibilities in the tax expenditure category before we look at cutting education for children, before we look at cutting Head Start, before we look at cutting afterschool programs, before we look at cutting title I and funding for disadvantaged children. All of those cuts are on the table but not $1 in tax expenditures. So the Senator from Massachusetts is absolutely correct.

Mr. KENNEDY. Finally, does the Senator not agree with me that we have seen a comprehensive review of these various programs, as we should, to find out how effective the programs are? These programs that we authorize and appropriate money for have been watched carefully in the past several years. But I don't know of a single hearing that has been held in the Senate of the United States to have a similar kind of review of tax expenditures, to find out whether there are inefficiencies and waste, or whether they are accomplishing what the public purpose and goal was when they were devised. There very well may be an opportunity to squeeze some resources out of tax expenditures so we don't have to cut education and health and home heating oil. Does the Senator think that ought to be part of this debate and discussion as we talk about the questions of funding these critical programs?

Mr. DASCHLE. If I may respond, the irony is that the only tax matter that has been on the table for our Republican colleagues has been the earned-income tax credit, the tax credit affecting working families who are trying to get off welfare, who are trying to ensure that they pay their bills on time, who appreciate the importance of having that little help in April of every year. In fact, our colleagues on the other side of the aisle, and on the other side of the Capitol, made the point last week that these families need some help in managing.

Well, I have heard, ''I am from the Government and I am here to help you'' in a lot of different ways, but this is a new chapter. There is no way we are going to help working families manage their money better by taking away the one financial tool they have in the Tax Code. That doesn't help them. It is a charade that even George W. Bush fully understood and appreciated and spoke out on.

I think the Senator from Massachusetts is absolutely right. That ought to be a consideration as well. We ought to be looking at $4 trillion in possibilities there, at least prior to the time we commit to cut the first dollar of education, the first dollar of health care for children, or the first dollar of Armed Forces personnel stationed abroad. That, it seems to me, would be the prudent approach.

Mr. REID. Will the leader yield for a brief question?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada for a question.

Mr. REID. The Senator from Massachusetts and the Senator from South Dakota talked about tax expenditures. Is that the same thing some of us refer to as ''corporate loopholes,'' ''corporate welfare,'' and ''tax loopholes''?

Mr. DASCHLE. That is what I am talking about. Obviously, when we talk about tax expenditures, people sometimes wonder what reference that is. In many cases, we are talking about loopholes. In fact, it is interesting that our Republican colleagues, in order to pay for the huge tax cut they had proposed

earlier this year—which ended up going nowhere—used corporate loophole closures as a way to pay for part of it. So even they have acknowledged on occasion that these corporate loophole closures are something we should be looking at; not in this case, however. In this case, they are proposing that we cut education first, that we cut health care first, and then we look at other things, perhaps—although it isn't addressed in this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that an additional amount of time be granted to this side equal to the time used in excess of the leader's allotted time. I first make an inquiry as to how much in excess of the leader's allotted time was just used.

Mr. REID. Parliamentary inquiry. Reserving the right to object, how much time?

The PRESIDING OFFICER. A total of 20 minutes was used.

Mr. REID. Is there a request pending?

The PRESIDING OFFICER. There is a request pending.

Is there objection?

Mr. LAUTENBERG. Parliamentary question: Is there not time usually reserved as leader time and as time allocated outside of debate?

The PRESIDING OFFICER. There is time reserved for the two leaders.

Is there objection?

Mr. REID. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I had inquired of the Parliamentarian how much time was being used when it was up to 17 minutes. I was informed that the Parliamentarian never interrupts the leader when the time is in excess. I didn't want to break with that custom. But it seemed to me, as a matter of comity and fairness, that if excess time was being used, there ought to be that much additional time on this side. But I understand the rules. If there is objection to that, so be it.

How much more time is left on this side of the aisle?

The PRESIDING OFFICER. Five minutes.

Mr. SPECTER. Mr. President, I listened with interest to the arguments by the Senator from South Dakota. When he talks about Democrats being locked out, certainly he isn't talking about this bill. The ranking member and I worked on this bill in a collaborative partnership. I don't know if he is referring to other bills or just this bill, but there was no lock out here. When the Senator from South Dakota objects to across-the-board cuts and says—may we have order, Mr. President—that we ought to take a look at matters one by one and make the tough choices, we ought to have the offsets, I would certainly be in favor of that.

If the Senator from New Jersey had made specific requests on offsets, I would have been glad to vote on them one by one instead of saying ''other appropriate offsets.'' If he had identified special interest tax loopholes, I would have been prepared to vote on those one by one instead of the generalization. But I think it is worth noting that on this bill nobody on that side of the aisle has made any suggestion for any offset—not at all.

We added to block grants $900 million by an amendment from the Senator from Florida. We had $900 million offered from day care and added to the bill by the Senator from Connecticut. We had $200 million offered but rejected by the Senator from California for afterschool; $200 million offered but rejected on class size by the Senator from Washington. We have amendments pending now by the Senator from Minnesota, Mr. WELLSTONE, $3 billion for disadvantaged education; $3 billion for Head Start. Other amendments, the Senator from Massachusetts, $200 million on one; the Senator from New Mexico, Mr. BINGAMAN, $200 million on another.

I think those are all very worthwhile programs. But it hardly lies in the mouth of those on the other side of the aisle to talk about hard decisions of offsets when they don't talk about any offsets and they don't talk about any hard decisions. They don't talk about specifics.

I don't like across-the-board cuts, either. I have said so. I don't think we are going to have across-the-board cuts. I think that is the sword of Damocles which is hanging over this appropriations process to keep us within the caps. But we have hardly heard of any offsets or any tough decisions on the other side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. NICKLES. Mr. President, I will make a couple of comments, and then we will vote.

For the information of all of our colleagues, we will have a vote momentarily on the Lautenberg amendment, or at least in relationship to the Lautenberg amendment.

I have heard: Well, if you follow the amendment that has already passed, we will have to have a 10-percent reduction.

I want to say categorically that is false, and people shouldn't try to mislead people. What we are saying is we should not be taking money out of Social Security trust funds to spend it on a bunch of other programs. We should show some discipline. I absolutely don't want across-the-board cuts. I want to make those cuts. I want us to live within the numbers necessary so we don't touch Social Security. That is $14 billion more than the caps. All right. We will go up to that amount, but not more than that amount. We need some limit.

This bill has been growing like crazy. The Labor-HHS bill, as Senator SPECTER mentioned, the bill that he reported out of committee, had significant growth; it had more money than the President requested for education. Somebody said: Well, if we adopt the last amendment, which is already adopted, and we followed that, we would have cuts in education.

We would have maybe 1 percent. But guess what. The education bill went up by $2.3 billion. You could have a 1-percent reduction in that and still spend more than the President requested.

The Labor-HHS bill over the year has been growing like crazy. In 1996, it was $63.4 billion; in 1997, it was $71 billion; in 1998, it was $80.7 billion. The bill we have before us is $84.4 billion. As Senator SPECTER mentioned, we already have amendments adding a couple of billion dollars on top of that. We defeated amendments to try to add a couple billion dollars more.

There is a whole slew of amendments to spend billions more as if there is no budget, as if there is no restraint whatsoever. And Senators are saying, wait a minute, you really are spending Social Security surpluses, and we shouldn't be doing that. We said we are not going to do it. We passed a resolution that says if it is necessary, we will have across-the-board cuts. We don't want to touch Social Security. Yet we have amendment after amendment saying let's spend more. Many of us reject that.

I yield the remainder of our time.

I move to table the Lautenberg amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2267. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—54

Abraham	Enzi	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Roberts
Brownback	Grams	Roth
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chafee	Hatch	Smith (NH)
Cochran	Helms	Smith (OR)
Collins	Hutchinson	Specter
Coverdell	Hutchison	Stevens
Craig	Inhofe	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Edwards	Mack	Warner

NAYS—46

Akaka	Biden	Breaux
Baucus	Bingaman	Bryan
Bayh	Boxer	Byrd

Cleland	Johnson	Murray
Conrad	Kennedy	Reed
Daschle	Kerrey	Reid
Dodd	Kerry	Robb
Dorgan	Kohl	Rockefeller
Durbin	Landrieu	Sarbanes
Feingold	Lautenberg	Schumer
Feinstein	Leahy	Snowe
Graham	Levin	Torricelli
Harkin	Lieberman	Wellstone
Hollings	Lincoln	Wyden
Inouye	Mikulski	
Jeffords	Moynihan	

The motion was agreed to.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1851, WITHDRAWN

Mr. NICKLES. Mr. President, I ask unanimous consent to withdraw my underlying amendment No. 1851.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, parliamentary inquiry.

The PRESIDING OFFICER. Is there objection to the motion of the Senator from Oklahoma?

Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. On our sequencing, we are now ready for an amendment from the Senator from Massachusetts, Mr. KENNEDY. He and I have had an informal discussion on a unanimous consent request to not have any second-degree amendments, to vote on or in relation to the Kennedy amendment after 30 minutes equally divided. And I supplement that with no second-degree amendments prior to the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I do not object to doing half an hour. I am instructed by the leadership on our side that they not start a vote until 4:15. But I can wind up if you want to start on a second.

Mr. SPECTER. It is my intention to stack the votes, to take them up later today, so there will be no vote before 4:15.

Mr. KENNEDY. Fine.

Mr. NICKLES. Reserving the right to object, was the request for a time agreement on the Kennedy amendment?

Mr. SPECTER. Yes.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania still has the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I renew my unanimous consent request to have 30 minutes equally divided, no vote before 4:15, no second-degree amendments, and a tabling motion on or in relation to the Kennedy amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2268

(Purpose: To protect education)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and I understand, therefore, that not withstanding other previous agreements in regard to first-degree amendments, this would qualify as a first-degree amendment.

Mr. SPECTER. That is right.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2268.

Mr. KENNEDY. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

In order to improve the quality of education funds available for education, including funds for Title 1, the Individuals with Disabilities Education Act and Pell Grants shall be excluded from any across-the-board reduction.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, this is a very simple amendment. Simply stated, this amendment says:

In order to improve the quality of education, funds available for education * * *

And then it says, such as:

Title I, the Individuals with Disabilities Education Act [IDEA] and Pell Grants shall be excluded from any across-the-board reduction.

Just a few minutes ago, we were having a debate on the floor of the Senate on the questions about overall general reductions in the budget which would have affected these education programs. We had a brief debate on alternative ways in order to try to deal with some of the budgetary considerations and constraints.

During that discussion and debate, I asked whether we had actually even given consideration to trying to find additional kinds of funding by closing some of the tax expenditures which are generally understood as tax loopholes. We did not receive any assurances on that. Really, as a result of that debate, as we are moving on through this whole appropriation bill, and in anticipation there may be another opportunity or another occasion where Senators will come forward and ask for a reduction in the funding levels across the board, this amendment just excludes the education programs.

We can ask why we ought to exclude education programs. Why not other programs? We could have some debate and discussion on that issue. But the principal reason for excluding these programs is because over the period of recent years, we have seen a series of reductions in education programs as a result of House and Senate Appropriations Committee action.

Going back to 1995, we had a House bill—this is just after the Republicans had gained control of the House and Senate—that actually requested rescission of $1.7 billion. Then the House bill in 1996 was $3.9 billion below 1995; in 1997, $3.1 billion below the President's request; in 1998, $200 million below the President's request; in 1999, $2 billion below the President's request.

We know this appropriation bill that has been reported out by the Appropriations Committee is in excess in total numbers of what the President requested. We also know it is on its way to the House of Representatives for negotiation.

The purpose of this amendment is, no matter what we are going to do in terms of other kinds of activities to reduce funding of various provisions of the legislation, we are not going to reduce funding in the area of education. That is basically the reason for this amendment. We know that the title I program works; the Pell program works; IDEA works; the other education programs work. We have had good debates on those measures over the past months. It is very important that we understand that.

We are now experiencing a significant increase in the total number of students who are going to be involved in K through 12 education. We will see 500,000 students this coming year attending our schools, an all-time high. We know we will need 2.2 million teachers over the next 10 years, and we are getting further behind, hiring only about 100,000 teachers a year. Even with the current efforts we have made in recruitment we are still falling further and further behind.

We are also finding that more young families and needy families are able to get their children through college. One of the most interesting developments that has taken place in this last year is, we have the best repayment of student loans in over 10 years. This means that young people who are going to post-secondary education are taking advantage of the federal loan programs, and are repaying those loans. This is a very important and significant indication that there is a great need for these federal loans, and that young people across this country are demonstrating a responsible attitude by repaying those loans on time.

I had raised the question earlier of whether we should not fully fund these important education programs, and other health care measures, child care measures and the community service block grant—I yield myself 3 more minutes. I have asked if we couldn't find some reductions in terms of tax expenditures to find that funding.

Only a few months ago, under the Republican tax bill, they effectively found $5.5 billion over 10 years in their legislation. All we are saying is, if you can find $5.5 billion over 10 years, you can certainly find enough now to protect the programs dealing with education, dealing with health care, dealing with the LIHEAP program and some of these other nutrition programs. These are programs which are a

lifeline to the neediest people in our society. That is what we are resisting. We are resisting this wholesale way of trying to diminish the continued commitment and responsibility we have to the neediest children and to the neediest workers and the neediest parents in our society. That is what brings us to the floor of the Senate today.

I see my friend and colleague from Iowa. How much time do I have, Mr. President?

The PRESIDING OFFICER (Mr. CRAPO). Eight minutes 41 seconds.

Mr. KENNEDY. I yield 4 minutes 30 seconds to the Senator from Iowa and the other 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding me this time. I compliment him on this amendment.

There is all this talk going around about across-the-board cuts. We just had the amendment offered by the Senator from Oklahoma which he withdrew. As you can see, there is some sentiment on the other side of the aisle to have some across-the-board cuts. Again, we have tried to resist those because, as the Senator from Massachusetts said so eloquently, there are a lot of people out there who could be drastically hurt—low-income people, needy people, seniors, veterans, and others.

What this amendment addresses is the education end of it. Both sides of the aisle have said time and time again that education is our No. 1 priority. The leader said that earlier this year. Both sides have been saying education is our No. 1 priority. What this amendment basically says is, as I understand it, if there is going to be any across-the-board cut—and there shouldn't be because we have plenty of offsets; we don't need an across-the-board cut—if there is an across-the-board cut, we will exempt education, only education, including IDEA, the Individuals with Disabilities Education Act, title I, and Pell grants.

What the Nickles amendment would have done—again, it is sort of rolling around out there about an across-the-board cut—CBO said the Nickles amendment would translate into a 5. 5-percent cut. For title I, that would be a $380 million cut. OMB said it would be as much as a 10-percent cut. That would be $800 million. So somewhere between a $380 and a $800 million cut in title I. Afterschool programs would be cut $20 to $40 million; ed technology, $35 to $70 million; and special education would be cut from $300 to $600 million, if, in fact we had an across-the-board cut.

Again, I urge Senators to vote for this amendment because it will send a signal, loudly and clearly, that if there are any across-the-board cuts, we are not going to take it out of education. We understand that education is our No. 1 priority. We understand we have to invest in education. The last thing we want to be included in any kind of across-the-board cut would be any cuts in education.

I compliment the Senator from Massachusetts. This is a great amendment. This ought to receive a 100–0 vote to protect education from any across-the-board cuts.

I yield back whatever time I have remaining.

The PRESIDING OFFICER. The Senator from Illinois had been yielded 4 minutes. Does the Senator from Oklahoma wish to speak at this time?

Mr. DURBIN. I would be happy to yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, two or three comments are in order.

Some people are still debating the amendment to which we have already agreed. I withdrew it. It was a sense of the Senate, a sense of the Senate which said we shouldn't be raiding Social Security funds. I don't think we should be raiding Social Security funds for education or for defense or for other issues. We have a lot of money. Defense is going up by $17 billion. Education alone is going up by $2.3 billion, even more than the President requested. As I stated before, if you do have an across-the-board cut, it is only 1 percent. And if you cut 1 percent off that 37.3, you are talking about $370 million off an increase that is $2.3 billion. So you still have an increase of $2 billion in education alone.

People are entitled to their own interpretation. They are not entitled to their own facts. Education has grown dramatically. The entire Labor-HHS bill, on which I have already quoted the figures, has grown from—I don't have it right in front of me—about $50 billion a few years ago to about $90 billion today.

So when I see charts: ''Republicans slashing education,'' it is just absolutely false. We have more money in this bill than the President requested. And even if you have a 1-percent reduction—and I hope we don't; I have said this time and time again; I hope we don't have an across-the-board reduction—I hope the appropriators will work with everybody to stay within the limit to which we agreed, which actually, so everybody will know, is $592 billion, and if we do that, we won't be touching Social Security. That is what we ought to do.

You can fund an increase in education, an increase in NIH, an increase in defense, an increase in HUD, an increase in veterans, and still not raid Social Security. That is what we are trying to do.

Just for the information of my colleagues, I withdrew the amendment. I don't believe the Senator's amendment is in order. I don't know how you amend something that is not underlying. I make that point and yield the floor at this time.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I will yield to the Senator from Pennsylvania, if he wishes.

Mr. SPECTER. The Senator may go first.

Mr. DURBIN. Mr. President, I thank the Senator from Massachusetts for raising this issue. In reply to my colleague, the Senator from Oklahoma, I believe the Senator from Massachusetts is making it clear, now that we know that lurking at least in the backs of the minds of many of the Republican leaders is the idea of an across-the-board cut, to somehow develop an exit strategy, the Senator from Massachusetts reminds us that across-the-board cuts means a cut in education.

Let me give you some specifics, if I might. When I look at the committee report from this education funding bill, I see that if the 5.5-percent cut that is envisioned by some of the Republican leaders is put into place, we will reduce the amount of money for title I, the major Federal educational program for disadvantaged children, to below last year's level of funding. So those who say this is a harmless cut that will never be noticed are not portraying this accurately, I'm afraid.

I am prepared to discuss the facts with the Senator from Oklahoma, and the facts, unfortunately, lead to the conclusion that if we take his across-the-board cut strategy, we are going to cut educational funding below last year's level of spending. In so doing, whom do we jeopardize? Title I, of course, sounds pretty general and pretty bureaucratic, but this program is critically important for 11 million kids across America. Who are these kids? These are the kids most likely to drop out of school; these are the kids most likely to need special help to stay up with their classes and not fall behind; these are the kids who need that extra tutor for reading so they don't get behind the class, get discouraged, and drop out of school or, frankly, become a problem in the classroom. That is what title I is about. That is the program that would be cut by the Senator from Oklahoma.

It is not the only program. The Congressional Budget Office says that the 5.5-percent across-the-board cut that is envisioned by some Republican leaders will cut many other programs as well: $26 million from the COPS Program, a program to put more police on the street and in communities, which is bringing down crime in America. Is there a higher priority? I don't think there is in my State of Illinois. The Head Start Program, from which millions of kids from poor families get a helping hand before they start kindergarten so they can succeed, we would see $290 million cut from that program by this idea of an across-the-board cut. National Institutes of Health: Of all of the progress we have made in improving Federal funding for medical research, we would cut $967 million out of the progress and research into diseases and problems facing American families. I think that is a serious mistake.

Title I education grants, a $380 million cut.

Let me tell you some of the other cuts in education effected by this Republican strategy of across-the-board cuts. Afterschool programs: All of us stood on this floor in horror over what happened at Columbine High School in Littleton, CO. We knew something went wrong in a very good school. Children lost their lives. We said: What is it that we need to do to protect our kids in school and to make sure fewer kids go astray? We were told by the experts time and time again that we need counselors at the schools to seek out troubled kids, and we need programs at the schools so kids can use their time effectively.

An across-the-board cut would reduce the amount of money available to American schools for afterschool programs. By reducing that amount of money, it is just going to lessen our opportunity to reach out to kids who need something constructive to do in a supervised environment after school. So when my friends on the Republican side say that the easy way out, the painless way, is an across-the-board cut, they don't want to face reality. Those cuts will touch people who need a helping hand. They are going to touch kids who might drop out of school. They are going to cut afterschool programs. They are going to cut the kind of tutoring we need to make sure that kids succeed.

In this day and time, at this time in our history, with the prosperity of the American economy, with the strength of this budget and of our budget process, have we reached a point where we have no recourse but to cut the most basic program for America—education? I think not. The President has come up with a list of offsets that will preserve the Social Security trust fund and still keep our budget in balance. I urge this Senate to adopt the amendment offered by the Senator from Massachusetts.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the anticipation is that we are not going to have across-the-board cuts because the totality of the appropriated bills will come within the caps. Senator STEVENS was on the floor and we were discussing the last amendment. That continues to be the reassurance from the chairman of the Appropriations Committee. I can personally vouch for the fact that we are striving mightily on a conglomerate of 13 bills to come within the caps. I am personally opposed to the cuts across the board, as I have already said. When the Lautenberg amendment was argued a few moments earlier this afternoon, I said if there were specific proposed cuts, we ought to take them up one at a time. I hope we don't get to that either. If we do get to cuts, I think that education ought to be preserved.

This bill has an increase in education of $2.3 billion, some $500 million more than the President's budget. That reflects the concerns that the distinguished ranking member, Senator HARKIN, and I have had. If there are to be cuts, I would want to exclude education.

It is true that it becomes difficult, once something is excluded, to not want to exclude other items. I would not want to see a cut in NIH. It hardly makes a lot of sense to add $2 billion to NIH if it is going to be cut almost $1 billion. Senator HARKIN and I probably would have increased it $3 billion in that case.

The Senator is laughing. It is good to have a laugh in the middle of the afternoon.

But what we have to do is avoid across-the-board cuts. If it comes to that, then we will start to make exclusions, and we are making choices to have other cuts instead of these cuts. Then when we start to exclude virtually everything, we will ultimately have to come down to what cuts are necessary if these 13 appropriations bills do not come within budget.

Mr. President, I see no other Senator on the floor seeking recognition. How much time remains?

The PRESIDING OFFICER. Ten-and-a-half minutes.

Mr. SPECTER. We are looking for a Senator to offer the next amendment.

Mr. HARKIN. Will the Senator yield?

Mr. SPECTER. Yes.

Mr. HARKIN. If we can yield back time, then the vote on this would be held at what time?

Mr. SPECTER. We are going to stack them later in the afternoon, but not in advance of 4:15, which was the point raised by Senator KENNEDY.

Mr. HARKIN. I ask the chairman, are we then through with this amendment and we are open for other amendments right now?

Mr. SPECTER. That is correct, as soon as I yield back the balance of the time, which I intend to do.

Mr. HARKIN. Will the Senator yield for me to make a couple of comments?

Mr. SPECTER. I yield.

Mr. HARKIN. We have a list of amendments. I urge Senators on our side to please come over and offer the amendments that we have listed. People are protected in their amendments, but we want to get the bill done. Any Senators who may not be on the floor but who are available, please come over and offer your amendments. We have time agreements, and we can get these out of the road this afternoon before we start voting later on. It would be a shame not to use the time we have right now available to us to offer amendments and get them debated.

Again, I urge Senators on the Democratic side to please come over.

Mr. KENNEDY. Will the Senator yield?

Mr. HARKIN. Yes.

The PRESIDING OFFICER. The Senator from Iowa is speaking on time yielded from the Senator from Pennsylvania.

Mr. KENNEDY. Mr. President, I wonder if we could have the attention of the Senator from Pennsylvania.

Mr. HARKIN. The Senator from Pennsylvania has the floor; is that correct?

The PRESIDING OFFICER. The Senator from Pennsylvania controls the remaining time.

Mr. KENNEDY. Mr. President, I was inquiring if the Senator would yield just for a question.

Mr. SPECTER. I do.

Mr. KENNEDY. I saw the Senator from Iowa indicating that we might have a lull. I see the Senator from Texas on her feet. There was a desire by the committee to move forward on this bill and I would be glad to move on to one of the other amendments with a short time agreement as well. I see the Senator from Texas. We will be glad to cooperate.

Mr. SPECTER. If I may respond, I would be glad to entertain the next amendment of the Senator from Massachusetts on a short time agreement. We are sequencing. We would like to now yield to the Senator from Texas to make a statement, and then we will proceed with an amendment on this side.

The PRESIDING OFFICER. The Senator from Texas.

Mr. SPECTER. Mr. President, I yield the remainder of my time.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senator from Maine and I have 10 minutes equally divided to speak on an issue pertaining to the bill but not actually offering an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. If it is agreeable to go ahead, we will be set to go. I am willing to work out a time agreement. As far as I am concerned, the Senator from Texas may want to go right ahead. I can follow her right away.

Mr. SPECTER. We have another amendment on this side. We are sequencing time. We will be yielding to Senator HUTCHISON now. We have another amendment on which we hope to have a short time agreement. Then we will return. Is the Senator from Massachusetts prepared to accept another time agreement of 30 minutes equally divided?

Mr. KENNEDY. I think the Senator from Rhode Island wishes to speak, if we can make it 45 minutes.

Mr. SPECTER. All right. Let's do this. I ask unanimous consent that in sequence after the Senator from Texas and the Senator from Maine are recognized for 10 minutes equally divided, there then be an amendment offered on the Republican side. We would then go to the Senator from Massachusetts, Mr. KENNEDY, for his amendment, a second-degree amendment, with 45 minutes equally divided.

Mr. REID. Reserving the right to object, does the Senator from Pennsylvania know how long the second amendment will take? Ours will be 45 minutes.

Mr. SPECTER. I haven't worked that time agreement out. I haven't talked

to the proponent. But I expect it to be 30 minutes equally divided. I would not want to make a commitment to that because I haven't cleared that.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I would not object with an amendment with a short-time agreement. There was some talk that there may be an offering of another type of amendment—one that might require a longer time agreement.

Mr. SPECTER. We don't anticipate offering the ergonomics amendment—if that is the Senator's question—at this particular time.

Mr. REID. Continuing to raise the objection, it is my understanding that Senator KENNEDY would be able to debate for 45 minutes equally divided prior to there being a motion to table.

Mr. SPECTER. That is correct.

Mr. REID. And no amendment would be in order.

Mr. SPECTER. That is correct.

Mr. REID. Prior to the motion to table.

Mr. SPECTER. No second-degree amendment would be offered prior to the motion to table.

The PRESIDING OFFICER. Hearing no objection, the Senators from Texas and Maine are recognized for 10 minutes each.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask that after 5 minutes I be notified so I can yield my colleague her 5 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mrs. HUTCHISON. Mr. President, I am talking today about an amendment that I would like to offer but am not able to because it would be subject to a rule XVI point of order. It is an amendment that has been offered before and passed by the Senate. Yet we have not been able to prevail in conference. It is just an amendment that would clarify the law in a particular area, and one that I think would improve the options that would be available in public schools.

Mr. SPECTER. Mr. President, will the Senator from Texas yield for a unanimous consent request?

Mrs. HUTCHISON. Yes.

Mr. SPECTER. We now have the intervening amendment to be offered by Senator COVERDELL, after Senators HUTCHISON and COLLINS speak, and I ask unanimous consent that on Senator COVERDELL's amendment there be 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Reserving the right to object, we need to see the amendment.

Mr. COVERDELL. I will get a copy for the Senator.

Mr. REID. Could we know the subject?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that my time start now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, the amendment I hope to provide in the ESEA authorization that is going to take place either later this year or next year would allow public schools the option of offering single-sex classes or single-sex schools in the public arena.

We all know that the hallmark of America is that we have a public education system that would give every child an equal opportunity to fulfill his or her potential. Many of us acknowledge that the public school systems throughout our country are failing the test today. What we are trying to do is give more options to public schools to acquire the necessary tools to provide each child the nurturing and the special attention they need to succeed.

My amendment would clarify existing Federal law by allowing Federal education funds to be used for single-sex public schools and classrooms as long as comparable educational opportunities are made available for students of both sexes. Remember, there is an option. It could not even come into being unless a school district and the school itself and the parents wanted this option.

Due largely to the fear that many schools throughout our country believe the Education Department's Office for Civil Rights will not allow single-sex education efforts, most schools and school districts are reluctant to use even their own money on same-gender education programs, much less Federal funds. Ask almost any student or graduate of a same-gender school, most of whom are from private or parochial schools, and they will almost always tell you they have been enriched and strengthened by their experience.

Surveys and studies of students show that both boys and girls enrolled in same-gender programs tend to be more confident and more focused on their studies and ultimately more successful in school as well as later in their careers, particularly if they have something to overcome in the way of either rowdiness, shyness, or something of that sort. Girls report being more willing to participate in class and to take difficult math and science classes they otherwise would not have attempted. Boys report less fear of being put down by their classmates for wanting to participate in class and excel in their studies. Teachers, too, report fewer control and discipline problems, something almost any teacher will tell you can consume a good part of class time.

Study after study has demonstrated that girls and boys in same-gender schools, where they have chosen this route, are academically more successful and ambitious than their coeducation counterparts.

Single-sex education has benefited students such as Cyndee Couch, an eighth-grader at Young Women's Leadership School in East Harlem, NY. Cyndee and the other students at their school, located in a low-income, predominantly African American and Hispanic section of New York City, have an attendance rate of 91.8 percent, significantly above the city average. They also score higher on math and science exams than the city average. In fact, 90 percent of the school's students recently scored at or above grade level on the standardized public school math problem-solving tests. The citywide average was 50 percent.

Last year, Cyndee bravely appeared on the television show ''60 Minutes'' to talk about why she likes this all-girls public school, one of the very few in the nation. She told host Morley Safer ''. . . as long as I'm in this school and I'm learning, and no boys are allowed in the school, I think everything's going to be OK.''

Unfortunately for Cyndee and for the other students in fledgling same-gender public school programs across the country, everything is not OK. Opponents of same-gender education have sued to shut down the Young Women's Leadership School and other schools like it around the country. I cannot imagine why they would do this when the success has been proven. We want to give the options to public schools that private and parochial schools now have.

It is not a mandate. It is an option. We want to pursue this so public schools will succeed in giving every child his or her full educational opportunity.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I want to begin my remarks by commending my friend and colleague from Texas for her leadership on this issue and for bringing it to the Senate's attention.

I wish to share with my colleagues a wonderful example of the accomplishments that can be realized by a same-gender class. A gifted math teacher, Donna Lisnik, at Presque High School, pioneered an all-girls math class some years ago. She believed it would result in greater achievement by the young girls who were studying math at Presque High School. She began to offer the same-sex class in math and she proved to be absolutely right. The class was offered for over 5 years and the results were outstanding. Both the achievement of these girls and the number of them participating in advanced math and science classes increased.

I had the privilege of visiting Mrs. Lisnik's classroom. I cannot overstate the excitement of the girls in her class studying advanced math. They were learning so much and they were so excited by this opportunity to learn together.

Incredibly, the Federal Department of Education concluded that this math class violated title IX of the Education Act. Consequently, Presque High

School was required to open the class to both boys and girls. It is interesting to note, however, that it is girls who continue to enroll in this class even though it is open to both boys and girls.

It is unfortunate that schools are prevented by the Federal regulations from developing single-gender classes in which both young women—and in other classes, young men—can flourish and reach their full potential. Senator HUTCHISON's proposal assures that other schools with innovative education programs designed to meet gender-specific needs will not face such obstacles.

This proposal does not weaken or undercut in any way the protections for women and girls in title IX. It does not allow a school to offer an education benefit for only one sex, to the exclusion of the other. Schools must have comparable programs for both boys and girls. However, it does give schools the flexibility to design and offer single-gender classes when the school determines that such classes will provide their students with a better opportunity to achieve high standards, the kind of high standards and achievement that I witnessed firsthand in Mrs. Lisnik's exciting math class in northern Maine.

Although Senator HUTCHISON has decided to withdraw her amendment, I am going to work with her to ensure that it is incorporated in the rewrite of the Elementary and Secondary Education Act that will be undertaken by the health committee later this year. This is a proposal that is designed to help young girls and young boys excel by using the device of single-sex classrooms. It deserves support.

I am very pleased to join with the Senator from Texas in supporting this effort.

I yield back any remaining time.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Maine for cosponsoring this amendment with me and for being willing in the committee to work on getting it included in the reauthorization.

This is an option, not a mandate. Coed education is better for a number of students. However, when students have a problem with not being willing to speak up in class or have a particular problem in math and science where it is indicated that they would do better in a single-sex atmosphere, let's have this option open for public school students, students who may not be able to afford the option of private school or parochial school, so that our public schools will be the very best they can be, offering every option they can offer to the public school students so every child in this country will have the same opportunity to excel.

I hope we can approve this amendment. The last time it was offered we adopted it in the Senate by a vote of 69–29. It was very bipartisan and very strong. I know Members on both sides of the aisle who have attended single-sex schools and who believe this is an option that should be allowed will fight for this amendment for every public school child to have this option without the hassle and threat of being sued that might deter the opportunity for them to have what would meet their needs.

AMENDMENT NO. 1837

(Purpose: To decrease certain education funding, and to increase certain education funding)

Mr. COVERDELL. Mr. President, I ask that Senate amendment 1837 be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Georgia [Mr. COVERDELL] proposes an amendment numbered 1837.

Mr. COVERDELL. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, line 19, strike ''$1,151,550,000'' and insert ''$1,126,550,000''.

On page 55, line 8, strike ''$65,000,000'' and insert ''$90,000,000''.

At the end, insert the following:

SEC. . FUNDING

Notwithstanding any other provision of law—

(1) the total amount made available under this Act to carry out part A of title X of the Elementary and Secondary Education Act of 1965 shall be $39,500,000;

(2) the total amount made available under this Act to carry out part C of title X of the Elementary and Secondary Education Act of 1965 shall be $150,000,000; and

(3) the total amount made available under this Act to carry out subpart 1 of part A of title IV of the Elementary and Secondary Education Act of 1965 shall be $451,000,000, of which $111,275,000 shall be available on July 1, 2000.

Mrs. HUTCHISON. Mr. President, I offer a second-degree amendment to the Coverdell amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. Under the precedent of the Senate, the second-degree amendment would not be in order until the time for debate has been utilized or yielded back.

Mrs. HUTCHISON. I will reoffer at the appropriate time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, amendment No. 1837 increases funding for Reading Excellence by $25 million; it would increase charter school funding by $50 million, and increase Safe and Drug Free Schools by $25 million. The amendment is paid for by an offset of $100 million from the fund for the improvement of education which is currently funded at $139.5 million. I repeat, the amendment increases funding for Reading Excellence by $25 million, increases charter school funding by $50 million, and increases Safe and Drug Free Schools by $25 million.

Charter schools are offering some of the most promising educational reform today. Since 1991, 34 States and the District of Columbia have enacted charter school programs. This year, more than 1,700 charter schools will be serving 350,000 of our Nation's students. As most Members know, charter schools are public schools which have been set free from burdensome Federal, State, and local regulations. In place of the intrusive regulations, charter schools are held accountable for academic results by the consumers, parents, and students.

In the last 2 years, exciting studies have been released that provide data on the success of charter schools around the country. In May of 1997, the Department of Education released its first formal report on the study of charter schools. The findings include the two most common reasons for starting public charter schools: flexibility from bureaucratic laws and regulations, and the chance to realize an educational vision.

About 60 percent of public charter schools are new startups rather than public or private school conversions to charter status.

In most States, charter schools have a racial composition similar to statewide averages, or have a higher proportion of minority students. Charter schools enroll roughly the same proportion of low-income students, on average, as other public schools.

The Hudson Institute also undertook a study of charter schools entitled ''Charter Schools in Action.'' Their research team traveled to 14 States, visited 60 schools, and surveyed thousands of parents, teachers, and students.

Some of the study's key findings: Three-fifths of charter school students report that their charter school teachers are better than their previous school's teachers; over two-thirds of the parents say their charter schools are better than that child's previous school with respect to class size, school size, and individual attention; 90 percent of the teachers are satisfied with their charter school educational philosophy, size, fellow teachers, and students.

Among students who said they were failing at their previous school, more than half are now doing excellent or good work. These gains were dramatic for minority and low-income youngsters and were confirmed by their parents.

The Hudson Institute study found that charter schools are successfully serving students, parents, and teachers. Currently, there are national and State studies that demonstrate a positive ripple effect. The study on the impact of Michigan charter schools found that charter school competition has put pressure on traditional public schools to become more accountable. A similar study done on Massachusetts charter schools found that district schools have been adopting innovative practices that mirror charter school efforts. A study on Los Angeles charter schools shows that charter schools

have influenced district reform by heightening awareness and initiating dialog.

The implication of the success of charter schools is that successful public schools should be consumer oriented, diverse, results oriented, and professional places that also function as mediating institutions in their communities. Charter schools offer greater accountability, broader flexibility for classroom innovation, and ultimately more choice in public education.

Many in this Chamber are aware of my strong support of the opportunity for low-income parents to choose the best educational setting for their child, whether public or private. I believe this ability to choose the best educational environment for our children is something all parents should have, not just those parents who can afford the choice.

Another provision of this amendment deals with reading excellence. To get an idea of our children's future, one has only to look in the Sunday paper at all the high-tech firms looking for applicants. There is no more clear indicator of where our economy is headed. Without basic skills, many of our children will be shut out of the workforce—left behind. We have a literacy crisis in the Nation. More than 40 million Americans cannot read. Those who cannot learn to read are not only less likely to get a good job but they are also disproportionately represented in the ranks of the unemployed and homeless. Consider that 75 percent of unemployed adults, 33 percent of mothers on welfare, 85 percent of juveniles appearing in court, and 60 percent of prison inmates are illiterate.

The Federal Government spends more than $8 billion on programs to promote literacy, with little result. More than 40 million Americans cannot read a phone book, a menu, or the directions on a medicine bottle, and only 4 out of 10 third graders can read at grade level or above. That is why last fall we passed an important piece of legislation to address the serious problem of illiteracy in our country. This legislation, the Reading Excellence Act, seeks to turn around our Nation's alarmingly high illiteracy rates by focusing on training teachers to teach reading, increasing parental involvement, and sending more dollars to the classroom.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 8 minutes 3 seconds.

Mr. COVERDELL. The legislation provide $210 million for research, teacher training, and individual grants for K–12 reading instruction and requires that funds for teacher training be spent on programs that are demonstrated by scientific research to be effective. It also authorizes grants to parents for tutorial assistance for their children. Most important, Reading Excellence ensures that 95 percent of the funds go to teaching children to read, not to administrative overhead. The Reading Excellence Act provides today's children with the tools they need to be successful in tomorrow's workforce. Helping to ensure every child can read is one of the best bills Congress can pass.

We also deal in this amendment with safety in schools. In 1996, students ages 12 through 18 were victims of about 225,000 incidents of nonfatal, serious, violent crimes at school and 671,000 incidents away from school. These numbers indicate that when students were away from school, they were more likely to be victims of nonfatal serious crimes including rape, sexual assault, robbery, and aggravated assault.

In 1996, 5 percent of all 12th graders reported they had been injured with a weapon such as a knife, gun, or club during the past 12 months while they were at school; that is, inside or outside the school building or on a school bus; and 12 percent reported they had been injured on purpose without a weapon while at school.

So I come back to the basic tenet of this legislation; that is, we are reinforcing, through the amendment, in a significant way, Federal assistance to charter schools, the Reading Excellence Act, and Safe and Drug Free Schools—$50 million more to charter schools, $25 million more to the Reading Excellence Act, and $25 million into Safe and Drug Free Schools.

Mr. President, I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island.

Mr. REED. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. REID. The minority yields back its time on this amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. The majority yields back its time on this amendment. I believe we have an agreement to accept it. I suggest this be dealt with by voice vote.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment (No. 1837) was agreed to.

Mr. COVERDELL. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1819

(Purpose: To increase funding for title II of the Higher Education Act of 1965)

Mr. KENNEDY. Mr. President, I welcome the opportunity to have the attention of the Senate on a measure which I think has compelling support of families across this country. I know we have a 45-minute time limitation. So we have 22½ minutes on our side.

I yield myself 5 minutes at the present time.

The PRESIDING OFFICER. The Senator would need to call up his amendment.

Mr. KENNEDY. I call up amendment No. 1819.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. REED, Mr. BINGAMAN, Mrs. MURRAY, Ms. MIKULSKI, Mr. DURBIN, Mr. LAUTENBERG, and Mr. KERRY, proposes an amendment numbered 1819.

Mr. KENNEDY. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 10, before the period, insert the following ": *Provided further,* That in addition to any other amounts appropriated under this heading an additional $223,000,000 is appropriated to carry out title II of the Higher Education Act of 1965, and a total of $300,000,000 shall be available to carry out such title, of which $300,000,000 shall become available in October 1, 2000".

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, if this amendment is accepted, it will provide some $300 million nationwide to improve the quality of teaching in the public schools of America. If we have had some important testimony over these past several years, it has been along these lines. Let's get along with having smaller class sizes in the various early years. Senator MURRAY, from the State of Washington, has made that case very clear. And the STAR report, that has focused in on the work of Tennessee, has also demonstrated that in a very compelling way.

The second area is afterschool programs. Our good friends, Senator BOXER from California, Senator DODD, and others, have spoken about the importance of afterschool programs for children in reducing violence and enhancing academic achievement and offering opportunities for business communities to work with children in these afterschool programs to offer career improvements.

There have been important needs which have been demonstrated for building additional kinds of facilities and improving the facilities that exist.

The General Accounting Office says that is in excess of over $100 billion. That amendment will follow on tomorrow. It is very important to make sure when every child goes to class in a public school system that the school is going to be in the kind of condition to which all of us want our children to go. If we do not do that, we send a very poor message to children. We say, effectively, it does not matter what that classroom looks like or what that classroom is really all about. That sends a powerful message to a child that perhaps education is not so important.

But when you consider that, and consider also the steps that have been taken in terms of improving technology in the classroom, improving the work that is being done in the areas of literacy, there is one important, outstanding additional issue which demands and cries out for attention in the Senate; and it is this: The American families want to have a well-qualified teacher in every classroom in America, period.

I think if you ask parents all across this country, at the end of the afternoon, where the greatest priority is—if you said, look, if we could have a well-qualified teacher in your child's classroom, I bet every family in America would put that just about at the top of their various lists.

Over the last 3 years, our Committee on Education has had extensive hearings on this issue. We made some recommendations in the last Congress on this issue. It had very strong bipartisan support on the issue of quality teaching. The approach that was taken in that legislation says: All right. We want to provide teacher enrichment for individuals who are already teachers.

We had ideas about mentoring with older teachers and working with professional teachers, but what we have not addressed in an adequate way is how we are going to recruit the kinds of teachers who would be the best teachers for our children and how we are going to train them in the most effective ways so they will be the very best.

This amendment, if it is accepted, amounts to $300 million. We have some $77 million in there now. The President had asked for $115 million to do it. But certainly the applications for this kind of training has far exceeded even the amounts we are talking about today.

This offers an opportunity to say to the young people of this country, and to those kinds of local partnerships—the effective State programs, the universities across this country in the States—that we are going to help and assist you in, as a top priority, recruiting the best teachers for the students in this country.

Finally, we have pointed out, in the education debate over the period of the past days, the need for new teachers. Some 2 million teachers over the next 10 years—200,000 a year—is what we need. We are only getting 100,000 at the present time. The Senate has rejected the excellent proposal of the Senator from Washington to increase the number of teachers in the early grades.

I yield myself 3 more minutes.

In fact, with the rejection of the Murray amendment, we are going to find in excess of 30,000 well-qualified, well-trained teachers who are working in grades K through 3 actually getting pink slips. It makes no sense at all. It makes no sense at all.

So it does seem to me that in an overall budget of $1.7 trillion—do we understand? $1.7 trillion—we ought to be able to have $300 million in the tried and tested way of recruiting teachers, additional teachers, who we know we are in short supply of; well-trained teachers, who we know we are in short supply of; and make them available to an expanding, growing population in our K through 12th grade system. We are increasing the number of students by 477,000 this year. So we are falling further and further behind.

This is a very simple, straightforward amendment. It is saying that of all of the priorities—and there are many—education is certainly among the very highest; and of all the priorities in the areas of education, getting good teachers, recruiting young and old people alike who will be good teachers, giving them the inspirational kind of training so they can go into the classroom, use the latest in technologies, adapt that to the kind of curricula to benefit the children of this country, should receive these additional funds.

Mr. President, I know there are others who want to speak on this issue. How much time remains on our side?

The PRESIDING OFFICER. Fifteen and one-half minutes.

Mr. KENNEDY. I yield 5 minutes to the Senator from Rhode Island, Mr. REED. I think all of us understand that he has made the issue of quality and highly trained teachers his issue in this body, as well his interest in providing pediatric specialists for all children. These are among the many other areas of public policy in which he has been actively engaged both on the Education Committee in the House of Representatives and here in the Senate. I certainly think all of us on the Health, Education, Labor and Pensions Committee in the Senate are very fortunate to have his insights about the importance of this amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I thank Senator KENNEDY for those kind words, and also for offering this very important amendment. I am a very proud cosponsor of this amendment with Senator KENNEDY.

Last Congress, on an overwhelming bipartisan vote the Senate passed the Teacher Quality Enhancement Grants program as part of the Higher Education Act Amendments of 1998. This was the first time we looked seriously at reforming the way our teachers are trained by enhancing the linkage between teacher colleges and elementary and secondary schools.

What we tried to emphasize is the connection between the teacher colleges and the real-life experiences of teachers in the classroom. The best way to enhance the quality of teaching in America is at the level of the entry teacher.

This is something the Kennedy-Reed amendment will provide more resources for. What we want to do is form a strong, vibrant, and vital link between the teacher colleges and the elementary and secondary schools. We want to ensure that teachers who leave teacher colleges are not just experts in theoretical and pedagogical subjects. We want them to be, first and foremost, experts on the subject matter that they teach, be it mathematics or science or any other subject. In addition, we want to ensure that they have extensive clinical experience.

The model to follow is our medical education system. No one would dream of certifying and licensing a physician after simply going to school and hearing lectures and then maybe having 2 or 3 weeks in a hospital. It is a long-term, extensive clinical education. That model is applicable also, I believe, to education.

In fact, what we have found from our hearings is a disconnect between what teaching students are learning in college and the reality of the teaching experience in the classroom. We want to eliminate that disconnect.

The Higher Education Act Amendments of 1998 sought to do just that by authorizing partnerships between teacher colleges and elementary and secondary schools. There are examples of partnerships that already existed and inspired us; examples such as Salve Regina University in my home State of Rhode Island, which has a partnership with the Sullivan School in Newport. It is exciting and challenging, not only to the young students in that school, but also to the prospective teachers who learn a great deal. In fact, at the heart of these partnerships is the attempt not only to change the culture of elementary and secondary schools but also to change the culture of teacher colleges.

Too often the teacher college in a great university is a poor cousin without a great endowment, neglected by other parts of the university. What we want to do is get the university involved in this great effort so that professors in the math, English, and history departments are also part of this great reawakening of teacher preparation at the university level. This cultural change at the college level, together with extensive clinical involvement with local elementary and secondary schools, I believe, is a fundamental way to enhance the quality of teachers.

The Kennedy-Reed amendment will provide more resources to do this very important and critical job that lies before us. We have gone through the first

round of grants with respect to the partnership grants. The Department of Education funded $33 million in the first round to 25 institutions of higher education and their elementary and secondary school partners. This is a first and important step, but we need to do more. That is precisely what this amendment proposes to do. It will appropriate additional resources so we can broaden dramatically these partnerships, as well as increase our investment in the state and recruitment grants also included in the Teacher Quality Enhancement Grants program.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REED. I ask unanimous consent for an additional minute.

Mr. KENNEDY. One additional minute.

Mr. REED. I thank the Senator.

If we, in fact, pass this amendment, we will be able to fund up to 100 additional partnership, state, and recruitment grant proposals, thereby enabling this important innovation in teacher preparation to be accessible throughout our nation.

I am strongly supportive of this amendment. I think it is something that will allow us to make great progress. Once again, emphasizing a point made so well by Senator KENNEDY, if you look at public education, and if you search for the most powerful lever that we have to improve it, to reform it, and to continue it as an excellent system, teacher training is that lever.

This amendment will give us the power to move forward, dramatically and decisively to improve the quality of teaching in the United States. I strongly support it and commend the Senator from Massachusetts for his efforts.

I yield back to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Nine and a half minutes.

Mr. KENNEDY. I yield 5 minutes to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KERRY. I thank the Chair, and I particularly thank my senior colleague for this amendment, as well as for his extraordinary leadership on the subject of education. I think everyone here will agree there simply is no stronger voice for the quality of our schools and the opportunities for our children than my senior colleague.

The great battle in the Senate over the past years has been to establish standards by which we would raise the education level of our schools. The fact is, a few years ago we basically won that battle because now 49 States in the country have agreed to put standards in place or have them in place. Those standards vary. In some States they are stronger than they are in other States, but the great challenge now is fourfold.

One is to stay the course in putting the standards in place and raising the standards. The second is to guarantee that teachers can teach to the standards. The third is to guarantee that students have the opportunity to learn to the standards. That is not being dealt with specifically, though partly, in this amendment. The final one is accountability. All of this has to be accountable. We have learned that. You have to know that what you are trying to teach and what kids are learning are, in fact, being taught and learned.

What the Senator from Massachusetts, my senior colleague, and Senator REED and I and others are joining in is a recognition that we have an extraordinary challenge before us. I was going to use the word ''crisis,'' but I don't want to use it because it is overused. We have all heard the quotes about the number of teachers we need to hire in the next few years. We know maybe as many as 2 million teachers are needed, perhaps half of them in the next 5 years. We also know we are losing 30 to 40 percent of new teachers within the first 3 to 4 years. We know there are ways to make a difference in teachers staying at what is increasingly becoming one of the toughest jobs in America.

It is interesting that a survey, released about 4 months ago, showed what teachers have been telling us for some time. Our own teachers in this country acknowledge that they don't feel fully prepared for the modern classroom. By modern classroom, we mean a lot of different things. We mean the technology needed to teach. We mean some of the modern teaching methodologies, pedagogies. We also mean the nature of the student who comes to school today. That student comes burdened with a whole set of problems, unlike the students of the past. We also know that because of the multicultural, racial diversity of our Nation, we have teachers coping with different cultures, with a diversity that is absolutely extraordinary but also challenging.

The fact is that fully 80 percent of our teachers tell us they don't feel equipped to be able to do the job. They are crying out for help. That is what the Kennedy amendment delivers. It makes education programs accountable for preparing high-quality teachers, for improving prospective teachers' knowledge of academic content, through increased collaboration between the faculty and schools of education and the departments of arts and sciences, so we will ensure that teachers are well prepared for the realities of the classroom by providing very strong, hands-on classroom experience and by strengthening the links between the university and the K-through-12 school faculties.

We also need to prepare prospective teachers to use technology as a tool for teaching and learning. We need to prepare prospective teachers to work effectively with diverse students.

The truth is that we as Senators talk about the difficulties of teaching today in America. The fact is that it is one of the most difficult jobs in our Nation. It is extraordinary to me that the Senate, at this time of urgent need in the country, might not be prepared to make the most important investment in the country. It is extraordinary to me that kids just 2 or 3 years out of college can earn in a Christmas bonus more than teachers will earn in an entire year. It is impossible to attract some of the best kids out of our best colleges and universities because we are not willing to provide the mentoring, the ongoing education, the support systems, and the capacity to really fulfill the promise of teaching in the public school system.

So I hope our colleagues will support the notion that all we are trying to do is raise to the original requested level the spending for the teacher enhancement grants, with the knowledge that this is the most important investment we can make in America. Teachers need and deserve respect from the Senate and from those who create the structure within which they try to teach our kids so that they can, in fact, learn and we can do better as a country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I think I have 3 and a half minutes left. I yield myself 3 minutes.

On this chart behind me, we see that communities need more well-qualified teachers. Out of 366 total applications—and this is 1999—only 77 applications were funded. With this particular amendment accepted, we would still be below half of what was actually in the pipeline for this last year, let alone what would be in there for next year. There is enormous need.

Finally, I will quote from the chairman of our Education Committee, Senator JEFFORDS, who, in his representation to the Senate on the education bill, had this to say about this particular provision that is in the law—not about this amendment but about this provision:

> At its foundation, Title II embraces the notion that investing in the preparation of our Nation's teachers is a good one. Well-prepared teachers play a key role in making it possible for our students to achieve the standards required to assure both their own well-being and the ability of our country to compete internationally.
>
> . . .Title II demands excellence from our teacher preparation programs; encourages coordination; focuses on the need for academic content, knowledge, and strong teaching skills.
>
> . . .These efforts recognize the fundamental connection that exists among States, institutions of higher education, and efforts to improve education for our Nation's elementary and secondary school teachers.

This provision had the strongest bipartisan support in that education bill. We know what the need is. We know this is a very modest amendment. We know what a difference it will make in terms of the high school students of this country. I hope this amendment will be accepted.

Mr. President, I understand I have a minute left.

The PRESIDING OFFICER. The Senator has a minute and a half.

Mr. KENNEDY. I yield that time to the Senator from Rhode Island, Mr. REED, with whom I have enjoyed working, along with my colleague from Massachusetts, Senator KERRY.

Mr. REED. I thank Senator KENNEDY.

Let me emphasize one additional point that bears repeating. The classroom today is very different from those in the 1950s or 1960s—different because of technology; different because families are in much more distressed conditions in many parts of the country; different because of the various cultural factors that go into the makeup of many classes, particularly in urban America. In fact, we are still teaching in too many colleges as if it were the class of 1950, as if it were the time of ''My Three Sons'' and ''Leave It To Beaver.''

That is not what American education is today. What we have to do today—and this amendment will help immensely—is refocus our teacher training to confront the issues of today, such as multiculturalism, children with disabilities in the classroom, and technology. This is absolutely critical. Unless we enhance our commitment to this type of education—partnerships between schools of education and elementary and secondary schools, drawing on the resources of the whole university, focusing these resources on new technology and the challenges that are particular to this time in our history—we are not going to succeed in educating all of our children to the world-class standards that we all know have to be met.

I urge passage of this very important amendment.

Mr. SPECTER. Mr. President, there is no doubt about the importance of teacher quality enhancement. Teachers are the backbone of the educational system. There is no doubt about the importance of education. It is a truism that education is a priority second to none. The bill that has been presented on the floor by the distinguished ranking member, Senator HARKIN, and myself through subcommittee and full committee has recognized the importance of education in that we have increased education funding by $2.3 billion this year over last year's appropriation. It is now in excess of $35 billion on the Federal allocation. Bear in mind that the Federal Government funds only about 7 percent of education nationwide.

When we talk about teacher quality enhancement, this is a program which is a very new program. It was not on the books in fiscal year 1998. For the current year, fiscal year 1999, we have an appropriation in excess of $77 million. When we took a look at it this year, we provided a $3 million increase. This is a matter of trying to recognize what the priorities are.

The President had asked for $115 million, and we thought that in allocating funds on a great many lines—title I, Head Start, and many other very important education programs—the proper allocation was $80 million. Now, when the Senator from Massachusetts comes in and asks for an increase of some $220 million, he is requesting $185 million more than the President's request. It would be an ideal world if our funding were unlimited. But what we are looking at here—and we have had very extensive debate today on whether the budget is going to invade the Social Security trust fund. I think this Senator, like others, has determined that we do not invade the Social Security trust fund.

We had debated whether or not there ought to be a pro rata increase or a decrease, if we ran into the Social Security trust fund, to make sure we didn't use any of the Social Security moneys, or whether, as the Senator from New Jersey, Mr. LAUTENBERG, offered in an amendment, to have other targeted cuts. My view is that we have to structure this budget so we don't cut into the Social Security trust fund.

Senator STEVENS was in the well of the Senate earlier today, and I discussed the matter with him. We are trying to structure these 13 appropriations bills so we don't move into the Social Security trust fund. But if we make extensive additions, as this amendment would do, adding $220 million, as I say, which is $185 million more than the President's request, it is not going to be possible to avoid going into the Social Security trust fund.

We have already had very substantial increases in funding on this bill. We have a bill of $91.7 billion, which is as much as we thought the traffic would bear on the Republican side of the aisle, realizing that we have to go to conference with the House which has a lower figure, and realizing beyond that, that we have to get the President's signature. We have already had $1.3 billion added to the $91.7 billion for block grants. We have had $900 million added for day care. Now, if we look at another amendment for $220 million, it is going to inevitably at one point or another break the caps.

These are not straws that break the camel's back. These are heavy logs which will break the back, and it is not even a camel.

Much as I dislike opposing the amendment by the Senator from Massachusetts, I am constrained to do so in my capacity as manager of this bill.

In the course of the past week, I have voted against more amendments on funding for programs that I think are very important than I have in the preceding 19 years in the Senate. But that is the responsibility I have when I manage the bill—to take a look at the priorities, get the allocation from the Budget Committee, have a total allocation budget of $91.7 billion, and simply have to stay within that budget.

Mr. President, I inquire as to how much time is remaining on the 45 minute time agreement.

The PRESIDING OFFICER. Seven minutes.

Mr. SPECTER. How much does the Senator from Massachusetts have?

The PRESIDING OFFICER. His time has expired.

Mrs. MURRAY. Mr. President, teacher quality is one of the most critical factors influencing student achievement and success. I urge my colleagues to support the Kennedy amendment, which would increase Teacher Quality Enhancement grants from $80 million to the fully authorized level of $300 million.

I am a cosponsor of this amendment, along with Senator REED of Rhode Island and others, because I firmly believe that an investment in teacher quality is an investment in our children's future. We know all learners have the capacity for high achievement. We must increase our investment in teacher quality enhancement so every child in America is taught by the most qualified teacher available. We must invest in our teachers. We must help them reach the highest levels of competency, so they in turn can help their students reach the highest summits of achievement. As we work to bolster teacher quality, we must also focus our attention on reducing class size. Smaller classes have led to dramatic gains in student achievement. We must continue to reduce class size so highly qualified teachers can provide students more individualized attention. Reducing class size and increasing investment in teacher quality enhancement are key to ensuring academic success for all students.

Mr. SPECTER. Mr. President, we are prepared to move ahead with another amendment. We are going to evaluate our schedule. I suggest, just a moment or two, the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, it is my understanding that the Senator from Rhode Island, Mr. REED, is prepared to offer an amendment, to speak to it for 10 minutes, and then withdraw it.

Mr. REED. That is correct.

Mr. SPECTER. I ask unanimous consent that the pending amendment be set aside.

Mr. KENNEDY. Mr. President, reserving the right to object, and I will not, is it appropriate to ask for the yeas and nays until the time has been yielded? I ask for the yeas and nays on my amendment. I ask for the yeas and nays on the previous amendment as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

It is in order to ask for the yeas and nays. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, reserving the right to object on the request for the amendment, I would happy to do that. I say to my friend from Pennsylvania that we want to use this fill time. Senator BINGAMAN will go next, may I inquire, on the next amendment offered?

Mr. SPECTER. I believe the next amendment would be on this side of the aisle.

Mr. REID. The next Democratic amendment would be Bingaman.

I thank the manager.

Mr. SPECTER. That is satisfactory.

I yield the remainder of my time on the Kennedy amendment.

I now ask unanimous consent to proceed with Senator REED under the stipulated terms of 10 minutes to offer an amendment and withdraw it.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 10 minutes.

Mr. REED. Thank you, Mr. President.

AMENDMENT NO. 1866

(Purpose: To permit the expenditure of funds to complete certain reports concerning accidents that result in the death of minor employees engaged in farming operations)

Mr. REED. Mr. President, I ask that amendment No. 1866 be called up.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 1866.

Mr. REED. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In title I, under the heading ''OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—SALARIES AND EXPENSES'', insert before the colon at the end of the second proviso the following: '', except that amounts appropriated to the Occupational Safety and Health Administration for fiscal year 2000 may be obligated or expended to conduct an investigation in response to an accident causing the death of an employee (who is under 18 years of age and who is employed by a person engaged in a farming operation that does not maintain a temporary labor camp and that employs 10 or fewer employees) and to issue a report concerning the causes of such an accident, so long as the Occupational and Safety and Health Administration does not impose a fine or take any other enforcement action as a result of such investigation or report''.

Mr. REED. Mr. President, this amendment is a result of a tragic accident in my home State of Rhode Island where a young worker on a farm was killed accidentally.

The police came immediately and determined that there was no foul play and concluded their investigation. But the parents were deeply concerned because no one could explain to them what happened.

As we looked into the matter for them, we discovered that for many years, because of a rider on this appropriations bill, OSHA has been prohibited from investigating deaths on farms that employ 10 or fewer workers.

If this terrible, tragic accident had taken place in a McDonald's, OSHA would be there. There would be an investigation. They would discover the cause. They would suggest remedies. They would do what most Americans expect should be done when an accident takes place in the workplace. But because of this small farm rider, OSHA is powerless to investigate.

I think it is wrong. I think it is wrong not only because these parents don't know what circumstances took the life of their child, but they also regret that it might happen again because there might be some type of systematic flaw or some type of problematic process on the farm that could also claim the life of another youngster.

Mr. SPECTER. Mr. President, will the Senator from Rhode Island yield for a moment on a managers' matter?

Mr. REED. I am happy to yield.

Mr. SPECTER. We are ready to proceed on the votes on the two amendments pending by the Senator from Massachusetts when Senator REED concludes. I thought perhaps we should notify the Members that the first vote will start at approximately 4:55.

I thank my colleague from Rhode Island for yielding.

I thank the Chair.

Mr. REED. Mr. President, let me continue.

My amendment would simply state that OSHA has the authority to conduct an inspection when a minor, someone under 18 years of age, is killed on a farm regardless of the size of the farm, but they would also be prevented from levying any type of fine or enforcement action. Their role would be very simple and very direct: Find the cause of the action; then, not with respect to that particular farm, not with respect to any particular sanction of penalty, generally, if they can learn something that would help protect the lives of others, they would incorporate that, of course, in their overall directions and regulations for farming and other activities.

These goals are very simple and straightforward: Identify the cause of the accident so that the employer knows what steps are needed to prevent similar deaths, and make that information available so that other farmers can take steps to avert similar tragedies.

This is not an academic or arcane issue because there are numerous youngsters working on farms. There are also in the United States about 500 work-related deaths reported each year. Moreover, although only 8 percent of all workers under the age of 18 are employed in agriculture, more than 40 percent of the work-related deaths among young people occur in the agricultural industry.

So this is an issue of importance.

Let me stress something else. This particular amendment would only apply if the individual youngster was, in fact, an employee of the farm. This would not affect a situation where a son or daughter are doing chores around the farm. This is a situation when someone is hired to work on the farm, and that person is involved in a fatal accident. I think it is only fair because I believe the parents in America, when they send their children into the workplace—be it a supermarket or McDonald's or a farm, large or small—expect their children will at least have the coverage of many of the safety laws we have in place; but failing that, at least we will have the power, the authority, the ability to determine what happened in the case of a fatal accident.

This proposal is not unique to the situation I found in Rhode Island. The National Research Council, an arm of the National Academy of Science, issued a report entitled ''Protecting Youth at Work,'' and among the recommendations:

To ensure the equal protection of children and adolescents from health and safety hazards in agriculture, Congress should take an examination of the effects and feasibility of extending all relevant Occupational Safety and Health Administration regulations to agricultural workers, including subjecting small farms to the same level of OSHA enforcement as that apply to other small businesses.

My proposal goes not to that great length, not to that extreme. It is much more constrained and limited. It simply says when there is a fatality involving an employee under 18 years of age on a farm—small or large—OSHA can conduct an inspection to determine the cause and perhaps propose remedial actions but cannot invoke any type of sanction or fine.

That is the height of reasonableness, given the experiences we have seen, given the report of the National Academy of Science, given all of these factors.

I believe this should be done. In fact, it is long overdue. It is simple justice, not only for the families of those youngsters who are fatally injured on these small farms, but also it will give us the impetus to save lives in the future.

Some have criticized this amendment as potentially imposing an undue burden on small farms. This is erroneous criticism. There is no burden here other than facing up to the facts and finding out what happened. Indeed, I believe knowledge is power; if we know what caused these accidents, we can prevent them and, even, I hope, make the operators of these farms more conscious of what they are doing, particularly as they employ youngsters.

This is an amendment I believe is important; it is critical. I offered a variation on this amendment in the Committee on Health, Education, Labor, and Pensions when we were considering

the SAFE Act. We had a vigorous debate but, I will admit, it met resistance.

I believe passionately we can do something and we must do something. I also recognize this process will not end today, that in the last few hours or moments of this debate it is unlikely this amendment will pass. I will, as I indicated to the Senator from Pennsylvania, withdraw the amendment. Such withdrawal does not signify retreat by me on this issue. I will continue to look for ways in which we can have investigations of fatalities on small farms, not because of any animus toward large or small farms but because when someone loses a child, I believe they deserve an answer. What happened? How did it happen? How can other children be spared from such a fatality?

In that spirit, I will continue to advance this issue and look for additional ways we can get an investigation. Again, the emphasis is not on being punitive; the emphasis is on being, first of all, fair to the family; and second, of being remedial so we can address problems that may be systematic and prevalent not just on the site of the particular fatality but endemic and systematic throughout the farming community.

AMENDMENT NO. 1866, WITHDRAWN

With that, I yield back my time, and I ask unanimous consent the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1866) was withdrawn.

Mr. REID. 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. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 1819

Mr. SPECTER. Mr. President, a few minutes ago we gave notice to Members we would have a vote at 4:55 and it is now 4:57.

I move to table the Kennedy amendment on teacher enhancement, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to table amendment No. 1819. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—56

Abraham	Feingold	McConnell
Allard	Fitzgerald	Murkowski
Ashcroft	Frist	Nickles
Bennett	Gorton	Roberts
Bond	Gramm	Roth
Brownback	Grams	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Campbell	Hagel	Smith (NH)
Chafee	Hatch	Smith (OR)
Cochran	Helms	Snowe
Collins	Hutchinson	Specter
Conrad	Hutchison	Stevens
Coverdell	Inhofe	Thomas
Craig	Jeffords	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Enzi	Mack	

NAYS—43

Akaka	Feinstein	Lincoln
Baucus	Graham	Mikulski
Bayh	Harkin	Moynihan
Biden	Hollings	Murray
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Breaux	Kennedy	Robb
Bryan	Kerrey	Rockefeller
Byrd	Kerry	Sarbanes
Cleland	Kohl	Schumer
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Lieberman	

NOT VOTING—1

McCain

The motion was agreed to.

Mr. LOTT. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2268

The PRESIDING OFFICER (Mr. CRAPO). The question is on agreeing to the Kennedy amendment No. 2268. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Kennedy Amendment No. 2268. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 50, nays 49, as follows:

YEAS—50

Abraham	Enzi	Kyl
Allard	Fitzgerald	Lott
Ashcroft	Frist	Lugar
Bennett	Gorton	Mack
Bond	Gramm	McConnell
Brownback	Grams	Murkowski
Bunning	Grassley	Nickles
Burns	Gregg	Roberts
Campbell	Hagel	Roth
Chafee	Hatch	Santorum
Cochran	Helms	Sessions
Coverdell	Hutchinson	Shelby
Craig	Hutchison	Smith (NH)
Crapo	Inhofe	Smith (OR)
Domenici	Jeffords	Stevens
Thomas	Thompson	Voinovich
	Thurmond	Warner

NAYS—49

Akaka	Edwards	Lincoln
Baucus	Feingold	Mikulski
Bayh	Feinstein	Moynihan
Biden	Graham	Murray
Bingaman	Harkin	Reed
Boxer	Hollings	Reid
Breaux	Inouye	Robb
Bryan	Johnson	Rockefeller
Byrd	Kennedy	Sarbanes
Cleland	Kerrey	Schumer
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

NOT VOTING—1

McCain

The motion was agreed to.

Mr. COVERDELL. Mr. President, I move to reconsider the vote.

Mr. ABRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. 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. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I would have voted against the Nickles amendment because I could not endorse a plan to bust the budget caps, spend every dime of the non-Social Security surplus, and then use budget gimmicks to keep ourselves from dipping into the Social Security surplus.

The Congress has the power of the purse, and that power carries with it the obligation to spend the taxpayer dollars responsibly. Just because we have a surplus of tax dollars in the Treasury, that doesn't mean we should spend it.

In fact, when we passed a tax relief bill this summer, we made it clear that the surplus—the portion that does not come from Social Security payroll taxes—should be given back to the taxpayers, not spent on big government. That bill was vetoed, as expected, and the Congressional leadership and the Administration have given up on providing meaningful tax relief to American families this year. But now we are apparently planning to use this year's surplus—the surplus that we were going to give back to the people—for more government spending.

The Nickles amendment does seek to protect the Social Security surplus, and I applaud him for that effort. I have consistently supported a lockbox to keep Congress' hands off these retirement funds.

However, I oppose the Nickles amendment because it contemplates spending the $572 billion allowed under the budget caps, as well as the $14 billion in non-Social Security surplus

funds, and even billions of dollars more—and then indiscriminately cut every program across-the-board by whatever percentage amount is needed to keep us from dipping into Social Security.

This ludicrous plan demonstrates just how badly the Congress is addicted to pork-barrel spending. Why not just cut out the pork?

I have identified over $10 billion in wasteful, unnecessary, and low-priority spending in the appropriations bills that have passed the Senate this year. Last year, when all was said and done, Congress spent over $30 billion on pork, some of it disguised as emergency spending, but most of it everyday, garden-variety pork.

If we cut out every one of these pork-barrel spending projects—projects added by Members of Congress for their special interest supporters and parochial concerns—we wouldn't have to resort to budget gimmicks like creating a thirteenth month in the next fiscal year, or delaying payments to our neediest families, or resorting to a Congressional sequester.

I have published on my Senate website voluminous lists that include every earmark and set-aside added by Congress this year and for the previous two years. I urge my colleagues to look over these lists. Surely, these pork-barrel projects aren't as deserving of taxpayer funding as, say, funding for our children's education, veterans health care programs, getting our military personnel and their families off food stamps, and the many other national priorities that would be cut in an across-the-board sequester gimmick.

Mr. President, I also want to make the point that voluntarily returning to the indiscriminate sequestration process of Gramm–Rudman-Hollings—a process that was instituted as a last-ditch effort to rein in enormous annual deficits—is not responsible budgetary stewardship. It is an admission of defeat, an admission that the Congress cannot control its appetite for pork-barrel spending.

Regarding the Lautenberg amendment, I voted to table that amendment for two reasons. First, by its silence on the issue, the amendment implicitly endorses spending the $14 billion non-Social Security surplus in the appropriations process. Second, the amendment contemplates closing special interest tax loopholes, which I fully endorse, but for the purposes of raising more money to spend on more government. I believe any revenues raised by making our tax code fairer and less skewed toward special interests should be used to provide tax relief for American families.

I agree that we must not dip into the Social Security Trust Funds; that would merely exacerbate the impending insolvency of the system. But I cannot support a plan to use the non-Social Security surplus for anything other than shoring up Social Security and saving Medicare, paying down the $5.6 trillion national debt, and providing tax relief to lower- and middle-income Americans. Neither the Nickles or Lautenberg amendments protect the entire surplus from the greedy hands of government.

Mr. President, we have a budget process and we have spending caps to make sure we keep the budget balanced. We should ensure that appropriations stay within the caps. We should cut out the wasteful and unnecessary spending. And we should make sure that America's priorities are funded, not the priorities of the special interests.

ORDER OF BUSINESS

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator ABRAHAM be recognized to offer his amendment, that immediately following the reporting by the clerk the bill be laid aside until 9:30 a.m. on Thursday, and at that time Senator ABRAHAM be recognized to make his opening statement on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have been authorized by the leader to say that in light of this last agreement there will be no further rollcall votes this evening.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1828

(Purpose: To prohibit the use of funds for any program for the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug)

Mr. ABRAHAM. Mr. President, I call up amendment No. 1828.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan (Mr. ABRAHAM), for himself, Mr. COVERDELL, Mr. GRASSLEY, and Mr. ASHCROFT, proposes an amendment numbered 1828.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 80, strike lines 1 through 8, and insert the following:

SEC. . Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Mr. ABRAHAM. Mr. President, if I could, based on the prior agreement that was entered into, we will begin a fuller discussion of this issue tomorrow morning, and I will be here along with other Members who wish to speak on it.

In a nutshell, this amendment to the appropriations bill before us would prohibit the use of our Federal dollars for the purpose of engaging in needle exchange programs.

I simply wish to indicate that when we discuss this in the morning, I will lay out arguments in support of the amendment. I believe the arguments would strongly buttress the case that we should not use the taxpayer dollars for purposes of needle exchange programs.

I am sure there will be a spirited discussion of this in the morning. I look forward to it.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, is the parliamentary situation such that the Senator from Virginia can make a unanimous consent request on a matter not related to the bill?

The PRESIDING OFFICER. Yes.

COMPREHENSIVE TEST BAN TREATY

Mr. WARNER. Mr. President, I rise to address the issue of the Comprehensive Nuclear Test Ban Treaty and to apprise the Senate of information presented at hearings of the Armed Services Committee over the last two days. The committee today conducted the second of its series of three hearings this week on the CTBT.

Yesterday morning, the Armed Services Committee heard classified testimony from career professionals, technical experts with decades of experience, from the Department of Energy laboratories and the CIA. At that hearing, the committee received new information having to do with the Russian nuclear stockpile, our ability to verify compliance with the CTBT, as well as DOE lab assessments of the U.S. nuclear stockpile. Much of what the committee heard during that hearing was new information—information developed over the past 18 months—and therefore was not available to the Congress and the President when the CTBT was signed in 1996. Since 1997, when the intelligence community released its last estimate on our ability to monitor the CTBT, new information has led the intelligence community—on its own initiative—to conclude that a new, updated estimate is needed. I have been informed that this new estimate will be completed late this year or early next year.

This morning, the Armed Services Committee heard from the Secretary of Defense, William Cohen, and the Chairman of the Joint Chiefs of Staff, General Shelton. This afternoon, we heard from Dr. James Schlesinger, former Secretary of Defense and Energy and former Director of Central Intelligence, and General Shalikashvili, former Chairman of the JCS. Their testimony is available on the Committee's web page.

In today's hearing, I highlighted my serious concerns with the CTBT in three areas:

1. We will not be able to adequately and confidently verify compliance with the treaty.

2. CTBT will preclude the United States from taking needed measures to ensure the safety and reliability of our stockpile.

3. The administration has overstated the effectiveness of the CTBT in lessening proliferation.

Regarding the safety of the U.S. nuclear stockpile, today's witnesses highlighted the fact that only half of the nuclear weapons in the U.S. stockpile today have all the modern safety features that have been developed and should be included on these weapon systems. We will not be able to retrofit these safety features in our weapons in the absence of nuclear testing. These are weapons that are stored at various locations around the world; weapons that rest in missile tubes literally feet away from the bunks of our submarine crews; weapons that are regularly moved across roads and through airfields around the world.

Regarding the reliability of the U.S. nuclear stockpile, Secretary Cohen and General Shelton acknowledged that it could be ten years or more before we will know whether the Stockpile Stewardship Program—computer simulation tools—needed to replace nuclear testing will work. Secretary Schlesinger clarified that, if we substitute computer simulation for actual nuclear testing, the most we can hope for is that these computer tools will slow the decline—due to aging—in our confidence in the stockpile. Will we ever be able to replace nuclear testing?

Regarding proliferation, Secretary Schlesinger highlighted the fact that the diminishing confidence in our stockpile, which is inevitable if we were to ratify CTBT, may actually drive some non-nuclear countries to reconsider their need to develop nuclear weapons to compensate for the diminished credibility of the U.S. deterrent force. This declining confidence in the U.S. stockpile is a fact of science that has been progressing since the United States stopped nuclear testing in 1992. Our nuclear weapons are experiencing the natural consequences of aging. Dr. Schlesinger stated it clearly when he asked: ''Do we want a world that lacks confidence in the U.S. deterrent or not?''

Regarding verification, this morning Secretary Cohen confirmed that the United States will not be able to detect low yield nuclear testing which can be carried out in violation of the treaty. In addition, we exposed the fallacy of the administration's claim that CTBT will provide us with important on-site inspection rights. We would need to get the approval of 30 nations before we could conduct any on-site inspections. That will be very difficult, to say the least.

Although I believe all of our witnesses have conducted themselves very professionally, I heard nothing at either of our hearings that changes my view of the CTBT. I am deeply concerned that the administration is overselling the benefits of this treaty while downplaying its many adverse long-term consequences.

My bottom line is this: reasonable people can disagree on the impact of the CTBT for U.S. national security. As long as there is a reasonable doubt about whether the CTBT is in the U.S. national interest, then we should not ratify it.

Mr. President, tomorrow morning the Armed Services Committee will conduct the third of its CTBT hearings. We will hear from the DOE lab directors and others responsible for overseeing the stockpile. We will also hear from former officials and other technical experts with years of experience in developing, testing and maintaining our nuclear weapons.

I ask unanimous consent to have printed in the RECORD material presented at today's hearing, including a letter to me dated October 5, 1999, from former Chairman of the JCS, John W. Vessey, USA-Ret; a letter to the Senate leaders from six former Secretaries of Defense and a letter from other former Government officials.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GARRISON, MN, *October 5, 1999.*

Hon. JOHN W. WARNER,
Chairman, Armed Services Committee,
United States Senate,
Washington, DC.

DEAR SENATOR WARNER: If the news reports are correct, the Armed Services Committee will be addressing the proposed Comprehensive Test Ban Treaty (CTBT) in the next few days. Although I will not be able to be in Washington during the hearings, I want you to have at least a synopsis of my views on the matter.

I believe that ratifying the treaty requiring a permanent zero-yield ban on all underground nuclear tests is not in the security interest of the United States.

From 1945 through the end of the Cold War, the United States was clearly the preeminent nuclear power in the world. During much of that time, the nuclear arsenal of the Soviet Union surpassed ours in numbers, but friends and allies, as well as potential enemies and other nations not necessarily friendly to the United States, all understood that we were the nation with the very modern, safe, secure, reliable, usable, nuclear deterrent force which provided the foundation for the security of our nation and for the security of our friends and allies, and much of the world. Periodic underground nuclear tests were an essential part of insuring that our nuclear deterrent force remained modern, safe, secure, reliable and usable. The general knowledge that the United States would do whatever was necessary to maintain that condition certainly reduced the proliferation of nuclear weapons during the period and added immeasurably to the security cooperation with our friends and allies.

Times have changed; the Soviet Union no longer exists; however, much of its nuclear arsenal remains in the hands of Russia. We have seen enormous political, economic, social and technological changes in the world since the end of the Cold War, and the these changes have altered the security situation and future security requirements for the United States. One thing has not changed. Nuclear weapons continue to be with us. I do not believe that God will permit us to ''uninvent'' nuclear weapons. Some nation, or power, will be the preeminent nuclear power in the world, and I, for one, believe that at least under present and foreseeable conditions, the world will be safer if that power is the United States of America. We jeopardize maintaining that condition by eschewing the development of new nuclear weapons and by ruling out testing if and when it is needed.

Supporters of the CTBT argue that it reduces the chances for nuclear proliferation. I applaud efforts to reduce the proliferation of nuclear weapons, but I do not believe that the test ban will reduce the ability of rogue states to acquire nuclear weapons in sufficient quantities to upset regional security in various parts of the world. ''Gun type'' nuclear weapons can be built with assurance they'll work without testing. The Indian and Pakistani ''tests'' apparently show that there is adequate knowledge available to build implosion type weapons with reasonable assurance that they will work. The Indian/Pakistan explosions have been called ''tests'', but I believe it be more accurate to call them ''demonstrations'', more for political purposes than for scientific testing.

Technological advances of recent years, particularly the great increase in computing power coupled with improvements in modeling and simulation have undoubtedly reduced greatly the need for active nuclear testing and probably the size of any needed tests. Some would argue that this should be support for the United States agreeing to ban testing. The new technological advantages are available to everyone, and they probably help the ''proliferator'' more than the United States.

We have embarked on a ''stockpile stewardship program'' designed to use science, other than nuclear testing, to ensure that the present weapons in our nuclear deterrent remain safe, secure, and reliable. The estimates I've seen are that we will spend about $5 billion each year on that program. Over twenty years, if the program is completely successful, we will have spent about $100 billion, and we will have replaced nearly every single part in each of those complex weapons. At the end of that period, about the best that we will be able to say is that we have a stockpile of ''restored'' weapons of at least thirty-year-old design that are probably safe and secure and whose reliability is the best we can make without testing. We will not be able to say that the stockpile is modern, nor will we be assured that it is usable in the sense of fitting the security situation we will face twenty years hence. To me that seems to foretell a situation of increasing vulnerability for use and our friends and allies to threats from those who will not be deterred by the Nonproliferation Treaty or the CTBT, and there will surely be such states.

If the United States is to remain the preeminent nuclear power, and maintain a modern safe secure, reliable, and usable nuclear deterrent force, I believe we need to continue to develop new nuclear weapons designed to incorporate the latest in technology and to meet the changing security situation in the world. Changes in the threat, changes in intelligence and targeting, and great improvements in delivery precision and accuracy make the weapons we designed thirty years ago less and less applicable to our current and projected security situation. The United States, the one nation most of the world looks to for securing peace in the world, should not deny itself the opportunity to test the bedrock building block of its security, its nuclear deterrent force, if conditions require testing.

To those who would see in my words advocacy for a nuclear buildup or advocacy for large numbers of high-yield nuclear tests, let me say that I believe we can have a modern, safe, secure, reliable and usable nuclear deterrent force at much lower numbers than we now maintain. I believe we can keep it modern and reliable with very few actual nuclear tests and that those tests can in all

likelihood be relatively low-yield tests. I also believe that the more demonstrably modern and usable is our nuclear deterrent force, the less likely are we to need to use it, but we must have modern weapons, and we ought not deny ourselves the opportunity to test if we deem it necessary.

Very respectfully yours,

JOHN W. VESSEY,
General, USA (Ret.), Former Chairman, Joint Chiefs of Staff.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

Hon. TOM DASCHLE,
Democratic Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE: As the Senate weighs whether to approve the Comprehensive Test Ban Treaty (CTBT), we believe Senators will be obliged to focus on one dominant, inescapable result were it to be ratified: over the decades ahead, confidence in the reliability of our nuclear weapons stockpile would inevitably decline, thereby reducing the credibility of America's nuclear deterrent. Unlike previous efforts at a CTBT, this Treaty is intended to be of unlimited duration, and though ''nuclear weapon test explosion'' is undefined in the Treaty, by America's unilateral declaration the accord is ''zero-yield,'' meaning that all nuclear tests, even of the lowest yield, are permanently prohibited.

The nuclear weapons in our nation's arsenal are sophisticated devices, whose thousands of components must function together with split-second timing and scant margin for error. A nuclear weapon contains radioactive material, which in itself decays, and also changes the properties of other materials within the weapon. Over time, the components of our weapons corrode and deteriorate, and we lack experience predicting the effects of such aging on the safety and reliability of the weapons. The shelf life of U.S. nuclear weapons was expected to be some 20 years. In the past, the constant process of replacement and testing of new designs gave some assurance that weapons in the arsenal would be both new and reliable. But under the CTBT, we would be vulnerable to the effects of aging because we could not test ''fixes'' of problems with existing warheads.

Remanufacturing components of existing weapons that have deteriorated also poses significant problems. Manufacturers go out of business, materials and production processes change, certain chemicals previously used in production are now forbidden under new environmental regulations, and so on. It is a certainty that new processes and materials—untested—will be used. Even more important, ultimately the nuclear ''pits'' will need to be replaced—and we will not be able to test those replacements. The upshot is that new defects may be introduced into the stockpile through remanufacture, and without testing we can never be certain that these replacement components will work as their predecessors did.

Another implication of a CTBT of unlimited duration is that over time we would gradually lose our pool of knowledgeable people with experience in nuclear weapons design and testing. Consider what would occur if the United States halted nuclear testing for 30 years. We would then be dependent on the judgment of personnel with no personal experience either in designing or testing nuclear weapons. In place of a learning curve, we would experience an extended unlearning curve.

Furthermore, major gaps exist in our scientific understanding of nuclear explosives. As President Bush noted in a report to Congress in January 1993, ''Of all U.S. nuclear weapons designs fielded since 1958, approximately one-third have required nuclear testing to resolve problems arising after deployment.'' We were discovering defects in our arsenal up until the moment when the current moratorium on U.S. testing was imposed in 1992. While we have uncovered similar defects since 1992, which in the past would have led to testing, in the absence of testing, we are not able to test whether the ''fixes'' indeed work.

Indeed, the history of maintaining complex military hardware without testing demonstrates the pitfalls of such an approach. Prior to World War II, the Navy's torpedoes had not been adequately tested because of insufficient funds. It took nearly two years of war before we fully solved the problems that caused our torpedoes to routinely pass harmlessly under the target or to fail to explode on contact. For example, at the Battle of Midway, the U.S. launched 47 torpedo aircraft, without damaging a single Japanese ship. If not for our dive bombers, the U.S. would have lost the crucial naval battle of the Pacific war.

The Department of Energy has structured a program of experiments and computer simulations called the Stockpile Stewardship Program, that it hopes will allow our weapons to be maintained without testing. This program, which will not be mature for at least 10 years, will improve our scientific understanding of nuclear weapons and would likely mitigate the decline in our confidence in the safety and reliability of our arsenal. We will never know whether we should trust Stockpile Stewardship if we cannot conduct nuclear tests to calibrate the unproven new techniques. Mitigation is, of course, not the same as prevention. Over the decades, the erosion of confidence inevitably would be substantial.

The decline in confidence in our nuclear deterrent is particularly troublesome in light of the unique geopolitical role of the United States. The U.S. has a far-reaching foreign policy agenda and our forces are stationed around the globe. In addition, we have pledged to hold a nuclear umbrella over our NATO allies and Japan Though we have abandoned chemical and biological weapons, we have threatened to retaliate with nuclear weapons to such an attack. In the Gulf War, such a threat was apparently sufficient to deter Iraq from using chemical weapons against American troops.

We also do not believe the CTBT will do much to prevent the spread of nuclear weapons. The motivation of rogue nations like North Korea and Iraq to acquire nuclear weapons will not be affected by whether the U.S. tests. Similarly, the possession of nuclear weapons by nations like India, Pakistan, and Israel depends on the security environment in their region, not by whether or not the U.S. tests. IF confidence in the U.S. nuclear deterrent were to decline, countries that have relied on our protection could well feel compelled to seek nuclear capabilities of their own. Thus, ironically, the CTBT might cause additional nations to seek nuclear weapons.

Finally, it is impossible to verify a ban that extends to very low yields. The likelihood of cheating is high. ''Trust but verify'' should remain our guide. Tests with yields below 1 kiloton can both go undetected and be military useful to the testing state. Furthermore, a significantly larger explosion can go undetected—or be mistaken for a conventional explosion used for mining or an earthquake—if the test is ''decoupled.'' Decoupling involves conducting the test in a large underground cavity and has been shown to dampen an explosion's seismic signature by a factor of up to 70. The U.S. demonstrated this capability in 1966 in two tests conducted in salt domes at Chilton, Mississippi.

We believe that these considerations render a permanent, zero-yield Comprehensive Test Ban Treaty incompatible with the Nation's international commitments and vital security interests and believe it does not deserve the Senate's advice and consent. Accordingly, we respectfully urge you and your colleagues to preserve the right of this nation to conduct nuclear tests necessary to the future viability of our nuclear deterrent by rejecting approval of the present CTBT.

Respectfully,

JAMES R. SCHLESINGER.
FRANK C. CARLUCCI.
DONALD H. RUMSFELD.
RICHARD B. CHENEY.
CASPAR W. WEINBERGER.
MELVIN R. LAIRD.

WASHINGTON, DC,
October 5, 1999.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

Hon. THOMAS A. DASCHLE,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATORS LOTT AND DASCHLE: The Senate is beginning hearings on the Comprehensive Test Ban Treaty (''CTBT''), looking to an October 12 vote on whether or not to ratify. We believe, however, that it is not in the national interest to vote on the Treaty, at least during the life of the present Congress.

The simple fact is that the Treaty will not enter into force any time soon, whether or not the United States ratifies it during the 106th Congress. This means that few, if any, of the benefits envisaged by the Treaty's advocates could be realized by Senate ratification now. At the same time, there could be real costs and risks to a broad range of national security interests—including our nonproliferation objectives—if Senate acts prematurely.

Ratification of the CTBT by the U.S. now will not result in the Treaty coming into force this fall, as anticipated at its signing. Given its objectives, the Treaty wisely requires that each of 44 specific countries must sign and ratify the document before it enters into force. Only 23 of those countries have done so thus far. So the Treaty is not coming into force any time soon, whether or not the U.S. ratifies. The U.S. should take advantage of this situation to delay consideration of ratification, without prejudice to eventual action on the Treaty. This would provide the opportunity to learn more about such issues as movement on the ratification process, technical progress in the Department of Energy's Stockpile Stewardship Program, the political consequences of the India/Pakistan detonations, changing Russian doctrine toward greater reliance on nuclear weapons, and continued Chinese development of a nuclear arsenal.

Supporters of the CTBT claim that it will make a major contribution to limiting the spread of nuclear weapons. This cannot be true if key countries of proliferation concern do not agree to accede to the Treaty. To date, several of these countries, including India, Pakistan, North Korea, Iran, Iraq, and Syria, have not signed and ratified the Treaty. Many of these countries may never join the CTBT regime, and ratification by the United States, early or late, is unlikely to have any impact on their decisions in this regard. For example, no serious person should believe that rogue nations like Iran

or Iraq will give up their efforts to acquire nuclear weapons if only the United States signs the CTBT.

Our efforts to combat proliferation of weapons of mass destruction not only deserve but are receiving the highest national security priority. It is clear to any fair-minded observer that the United States has substantially reduced its reliance on nuclear weapons. The U.S. also has made or committed to dramatic reductions in the level of deployed nuclear forces. Nevertheless, for the foreseeable future, the United States must continue to rely on nuclear weapons to contribute to the deterrence of certain kinds of attacks on the United States, its friends, and allies. In addition, several countries depend on the U.S. nuclear deterrent for their security. A lack of confidence in that deterrent might itself result in the spread of nuclear weapons.

As a consequence, the United States must continue to ensure that its nuclear weapons remain safe, secure, and reliable. But the fact is that the scientific case simply has not been made that, over the long term, the United States can ensure the nuclear stockpile without nuclear testing. The United States is seeking to ensure the integrity of its nuclear deterrent through an ambitious effort called the Stockpile Stewardship Program. This program attempts to maintain adequate knowledge of nuclear weapons physics indirectly by computer modeling, simulation, and other experiments. We support this kind of scientific and analytic effort. But even with adequate funding—which is far from assured—the Stockpile Stewardship Program is not sufficiently mature to evaluate the extent to which it can be a suitable alternative to testing.

Given the absence of any pressing reason for early ratification, it is unwise to take actions now that constrain this or future Presidents' choices about how best to pursue our non-proliferation and other national security goals while maintaining the effectiveness and credibility of our nuclear deterrent. Accordingly, we urge you to reach an understanding with the President to suspend action on the CTBT, at least for the duration of the 106th Congress.

Sincerely,

BRENT SCOWCROFT.
HENRY A. KISSINGER.
JOHN DEUTCH.

MORNING BUSINESS

Mr. SPECTER. Mr. President, on behalf of the leader, I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE COMPREHENSIVE NUCLEAR TEST BAN TREATY

Mr. DORGAN. Mr. President, today I attended an event in the White House at which 31 nobel laureates, the Chairman of the Joint Chiefs of Staff, four previous chairmen of the Joint Chiefs of Staff, the Secretary of Defense, and the President, among many others, supported the ratification by the Senate of the Comprehensive Nuclear Test Ban Treaty.

The point was made in those presentations that this treaty is not about politics. It is not about political parties. It is about the issue of the proliferation or spread of nuclear weapons and whether the United States of America should ratify a treaty signed by the President and sent to the Senate over 700 days ago that calls for a ban on all further testing of nuclear weapons all around the world.

For some months, I have been coming to the floor of the Senate suggesting that after nearly 2 years we ought to be debating the question of whether this country should ratify the Comprehensive Nuclear Test Ban Treaty.

I have exhibited charts that have shown the Senate what has happened with respect to other treaties that have been sent to the Senate by various Presidents, how long it has taken for them to be considered, the conditions under which they were considered, and I have made the point that this treaty alone has languished for over 2 years without hearings and without discussion. Why? Because there are some in the Senate who oppose it and don't want it to be debated or voted upon.

There are small issues and big issues in the course of events in the Senate. We spent many hours over a period of days debating whether to change the name of Washington's National Airport. What a debate that was—whether to change the name of Washington National Airport. That was a small issue. It was proposed that former President Reagan's name be put on that airport. Some agreed, some disagreed. We had a vote, after a debate over a number of days. The naming of an airport, in my judgment, is a small issue.

An example of a big issue is whether we are going to do something as a country to stop the spread of nuclear weapons. Now a big issue comes to the floor of the Senate in the form of a request for ratification of a treaty called the Comprehensive Test Ban Treaty. It is not a new idea, not a new issue. It started with President Dwight Eisenhower believing we ought to exhibit the leadership to see if we could stop all the testing of nuclear weapons around the rest of the world. It has taken over 40 years. Actually, 7 years ago this country took unilateral action and said: We are going to stop testing. We, the United States, will no longer test nuclear weapons. So we took the lead, and we decided 7 years ago we would not any longer test nuclear weapons.

The treaty that is now before the Senate, that was negotiated with many other countries around the world in the last 5 years and sent to the Senate over 2 years ago, is a treaty that answers the question: Will other countries do what we have done? Will we be able to persuade other countries to decide not to test nuclear weapons?

Why is that important? Because no country that has nuclear weapons can acquire more advanced weaponry without testing. And no country that does not now have nuclear weapons can acquire nuclear weapons with any assurance they have nuclear weapons that work without testing. Prohibit testing, stop the testing of nuclear weapons, and you take a step in the direction of stopping the spread of nuclear weapons around this world.

We have some 30,000 nuclear weapons in the arsenals of Russia and the United States. We have other countries that possess nuclear weapons. We have still other countries that want to possess nuclear weapons. We have a world that is a dangerous world with respect to the potential spread of nuclear weapons. The question is, what shall we do about that? What kind of behavior, what kind of response in this country, is appropriate to deal with that question?

Some say the response is to ratify the Comprehensive Test Ban Treaty. I believe that. I believe that very strongly. Others say this treaty will weaken our country, that this treaty is not good for our country, this treaty will sacrifice our security. Nothing could be further from the truth. Nothing. Some say that—not all—have never supported any arms control agreements, never liked them. I understand that, despite the fact those people have been wrong.

Arms control agreements have worked. Actually, agreements that we have reached through the ratification of treaties have resulted in the reduction of nuclear warheads, the reduction of delivery vehicles. Some arms control treaties have worked. However, there are some who have not supported any of those treaties. I guess they are content to believe it is their job to oppose treaties. There are others who have supported previous treaties who somehow believe this treaty is inappropriate. Perhaps they read a newspaper article last week that said there are new appraisals or new assessments by the CIA that suggest it would be difficult for us to monitor low-level nuclear tests. That article was wrong. The article in the newspaper that said the CIA has a new assessment or a new report is wrong. The CIA has no new assessment. The CIA has no new reports. I have talked to the Director of the CIA. No such report and no such assessment exists.

Do we have difficulty detecting low-level nuclear explosions, very low-level nuclear explosions? The answer is yes. But then, the answer is also: Yes; so what? Will the ability to detect those kinds of small explosions—explosions which, by the way, don't give anyone any enhanced capability in nuclear power or nuclear weaponry—will we be able to better detect those and better monitor those if we pass this Comprehensive Test Ban Treaty? The answer to that is an unqualified yes.

I have a chart to demonstrate what I mean. This chart shows the current monitoring network by which we attempt to monitor where nuclear tests may have occurred in the world. This bottom chart shows current monitoring. The top chart shows monitoring

that will occur after we have a Comprehensive Test Ban Treaty in place. Is there anyone who can argue that having this enhanced monitoring in place will not enhance our capability of detecting nuclear weapons tests? Of course it will. That is why every senior military officer in this country who has been involved in this—from the Joint Chiefs to the Chairman of the Joint Chiefs to the other senior officers—have said passage of the Comprehensive Test Ban Treaty is good for this country and will not jeopardize this country's security. They know and we know it will enhance this country's ability to detect nuclear tests anywhere around the world.

It baffles me that on an issue this big and this important, we have people who seem to not want to understand and debate the facts. I mentioned I have been on the floor for some months pushing for consideration of this treaty. Probably partly as a result of that, probably partly as a result of a letter that all 45 Members of the Democratic caucus sent to the majority leader saying we think the Senate ought to consider this treaty, we ought to have hearings, about a week ago the majority leader abruptly decided, all right, we will consider this Comprehensive Test Ban Treaty; we will consider it by having a vote in a matter of 10 days or so.

We had held no hearings. This has not been a thoughtful process of consideration. We have not held comprehensive hearings; we have sparked no national debate. We will just go to a vote—as far as I am concerned, that is not a very responsible thing to do, but I won't object to that—go to a vote if that is what you want to do.

It is very interesting how those in this Chamber treat the light seriously and treat the serious lightly. If ever there was a case of treating serious issues lightly, it is this. We have a treaty dealing with the banning of nuclear testing in this world, negotiated and signed by 145 countries, languishing here for 2 years, and now in 10 days let's have a vote—and, by the way, we don't intend on having significant hearings.

The Senator from Virginia indicated he will have hearings. I applaud him for that. He is a thoughtful Senator, in my judgment; I respect him deeply. He disagrees with me on this issue. I have deep respect for him. I think it is appropriate there are hearings being held this week. I think they probably thought—some thought—you can't call this up for a vote without at least showing you will have some hearings. I am told the requests to have people testify at the hearings who support the Comprehensive Test Ban Treaty was not met with great success. Who knows; we will see the record of that, I suppose, toward the end of the week.

Let me show what our allies have done with respect to this treaty. We spent a lot of time on the floor of the Senate talking about NATO. We have been involved with NATO, in Kosovo and elsewhere. In fact, the Senate voted to expand NATO. NATO is an important security alliance. What have our NATO allies done with respect to this Comprehensive Test Ban Treaty? Most of them have already ratified it. Two of the NATO nuclear powers have ratified the treaty, England and France. NATO itself endorsed the treaty at the April 1999 conference. The United States has yet to ratify it. Some would say: Neither have China and Russia. Of course they are not NATO members. Neither have China nor Russia. That is true, they have not. They will, in my judgment, when this country ratifies it. They did when this country ratified the chemical weapons treaty.

My point is this: I think this country has a responsibility to provide leadership, moral leadership, on an issue this important. Are there questions that can be raised about this treaty? Yes. And every single one of them can be answered easily and decisively, every one. There is not a question that has been raised that casts a shred of doubt on what the outcome ought to be on the vote in this Senate on this treaty. If you believe this country has a responsibility to provide leadership to stop the spread of nuclear weapons and reduce the threat of nuclear war, then this Senate ought to ratify this treaty.

Perhaps it would be useful to quote President Kennedy who succeeded President Eisenhower. President Eisenhower, 40 years ago, said:

> One of greatest regrets of any administration of any time would be the failure to achieve a nuclear test ban treaty.

President Kennedy, following President Eisenhower's lead, said the following:

> A comprehensive test ban would place the nuclear powers in a position to deal more effectively with one of the greatest hazards man faces. It would increase our security. It would decrease the prospects of war. Surely this goal is sufficiently important to require steady pursuit, yielding neither to the temptation to give up the whole effort nor the temptation to give up our insistence on responsible safeguards.

President Johnson said:

> We shall demonstrate that, despite all his problems, quarrels and distractions, man still retains a capacity to design his fate rather than be engulfed by it. Failure to complete our work will be interpreted by our children and grandchildren as a betrayal of conscience in a world that needs all of its resources and talents to serve life, not death.

When Nikita Khrushchev, in discussions and dialog with President Kennedy, described nuclear war as ''a circumstance in which the living would envy the dead,'' that was almost 40 years ago, long, long ago, before we had arsenals of 30,000 nuclear weapons, some in airplanes, some on submarines, some on missiles, some in storage facilities, with many countries around the world wanting to achieve the opportunity to possess nuclear weapons.

We have very few opportunities to do work as important as will be done if the Senate ratifies this treaty. My expectation is that when we debate this treaty in the coming couple of days—the schedule is for a debate Friday and a debate the following Tuesday—at the culmination of 14 hours, we would discuss the advisability of the Senate ratifying this treaty. There will be a lot of discussion by those who believe it is ill advised and by those who believe it is imperative the Senate ratify this treaty.

Let me make a couple of other comments that might describe some of this debate. The debate will not be about the American people's interests. According to surveys, 82 percent of the American people support a comprehensive nuclear test ban—82 percent of the American people. The debate, in my judgment, will not be about espionage by the Chinese. Some have said the Chinese espionage allegations at National Laboratories actually weaken the case for a Comprehensive Nuclear Test Ban Treaty. In fact the Cox report, which was published earlier this year, pointed out that if China were a signatory to and were to adhere to the CTBT, its ability to modernize its nuclear arsenal would be significantly curtailed.

Let me put up the chart of the monitoring stations. After we ratify the treaty, let me ask if anyone in this Chamber could make the argument that we have less capability to monitor than we do now? No one can make that case. We will have more capability. And no one can make the case there is some new assessment or new report by the CIA that poses a danger, saying we can't detect tests of nuclear explosions. That is not accurate either. Despite the story in the newspaper, the CIA says there is no new assessment. The CIA says there is no new report.

Can we detect low-level explosions that have no consequence in the development of advanced weapons or the acquisition of nuclear weapons? The answer is no; we cannot detect those low-level explosions. And the response is, so what? So what? We could not 4 years ago; we cannot now. Have our abilities to detect been enhanced in the last few years? The answer is yes. But we will hear those charges nonetheless. I think it is important for people to understand the charges are without merit.

Today at the White House, 31 Nobel laureates were in attendance. These are those honored physicists and chemists who have won the highest awards, who have powerful intellects, the scientists who understand and evaluate these issues. One of those scientists who spoke today is Dr. Charles Townes. He is the man who invented radar during the Second World War for our airplanes, and the laser—a towering intellect. He spoke with passion about the need for this country to ratify the Comprehensive Nuclear Test Ban Treaty.

These scientists almost uniformly indicate they have no questions about our ability to detect explosions of consequence. They have no questions

about our ability to require compliance with this treaty and detect cheating. In the front row of that meeting at the White House today were the Joint Chiefs of Staff, General Shalikashvili, the former Chairman of the Joint Chiefs; General Shelton, the current Chairman of the Joint Chiefs; Gen. David Jones, a former Chairman of the Joint Chiefs; Admiral Crowe, former Chairman of the Joint Chiefs—all of them were there to support this treaty.

Why? Because it weakens this country? No; of course that's absurd. It does not weaken this country. They were there because they know it strengthens this country. They know, from a security standpoint and from a military standpoint, the ratification of this treaty strengthens this country.

I know I have heard about briefings that are held which suggest that there is information that is not available to the American people that suggests something different. It is not the case. It is just not the case. I am sorry. I respect those who disagree with me. They are welcome to come to the floor of the Senate, and will, and they will debate. I am sure they will be persuasive, in their own way. But I am telling you in my judgment, there is nothing, there is nothing that would persuade the last four Chairmen of the Joint Chiefs of Staff, including Gen. Colin Powell, to support the ratification of this test ban treaty if they felt this treaty would injure this country.

Does anyone in this Chamber believe that Gen. Colin Powell is advocating ratification of a treaty that will weaken this country? If so, come and tell us that. Or perhaps we will have people come and say Gen. Colin Powell doesn't understand. Or, if he understands, he is misinformed. I don't think so. Not General Powell, not General Shalikashvili, not General Jones, not Admiral Crowe, and not General Shelton. All of them come to the same conclusion: This treaty will strengthen our country. The ratification of this treaty will strengthen the security of this country. The ratification of this treaty will allow us to better monitor whether anyone cheats on a treaty that is designed to ban nuclear testing.

Again, there is room for disagreement, but in my judgment there is not room for the Senate to say to the world: We quit testing in 1992 unilaterally, and our position is we quit testing, but anyone else out there, our message is: You go ahead; we do not want to impose the same limitation on you; we have quit testing nuclear weapons, but we do not want to impose the limitation on you.

We have two countries that have nuclear capability: India and Pakistan. They do not like each other much, and they are neighbors. They share a contentious border. Earlier this year, they each exploded a nuclear weapon literally under each other's chin. That should provide a sober warning to the rest of this world that we need to stop nuclear testing and need a ban on nuclear testing, especially to the Senate, a senate in a country that possesses the best capability of leadership in the entire world on this issue. The proliferation of nuclear weapons and the willingness to use them, the willingness to test them, is a very serious issue. It is a big issue, and this Senate has a responsibility to address it.

It would be unthinkable for me to see this Senate proceed in the manner it now appears to be proceeding, and that is to take an issue this important and to blithely say: All right, it's been here 2 years; we have not cared much about it, and a week from Tuesday, we will bring it up and kill it because we do not believe in arms control; if you don't like that, that's tough luck.

That is not a responsible way to legislate. I did not object to bringing it up on Tuesday. There was a unanimous consent request. I did not object to it. If that is the only way to get a vote, as far as I am concerned, so be it. But it is not a responsible way to legislate. All of us know better than that. We know better on issues this important that the way to legislate is to take a treaty that has been signed by 154 countries, and have a series of hearings. We should have men and women across this country weigh in on this issue, have a robust, aggressive, thoughtful, interesting, exciting debate, and then the Senate should vote. That is not what has happened here. We know that.

Two years have passed, and this treaty has been in prison. This treaty has not seen the light of day. I know we had a Senator saying that is not true, there have been hearings. Senator BIDEN came to the floor to refute that. There have been no hearings. This week, there have been a couple of hearings. The Senator from Virginia just talked about hearings. He is a man for whom I have great respect. I only regret he is on the other side of this issue.

Everyone in this Chamber knows better than to proceed with this issue in this manner. This has great consequences all around the world. This country has a responsibility all around the world. Everybody in this Chamber knows better. That is not the way you handle a treaty of this importance, by standing up and saying: If you want a treaty, then let's do it in 10 days, and if you don't like it, tough luck.

If that is the only opportunity presented to the Senate to decide we are going to lead the world in arms control and say to the rest of the world we have quit testing nuclear weapons and we want you to as well, we are going to ratify the treaty, that is fine.

If there are those who stand up and say: We do not support a ban on nuclear testing; in fact, we ought to test more; we do not want to send a signal to India and Pakistan not to test; we do not want to send a message to Russia and China to ratify the pact, they can say that. That is the democratic way. But they will not say it with my vote. It is the wrong direction for this country. It is not leadership. It is an abdication of leadership, in my judgment. I hope in the coming days we will find a way to see if we cannot have a more thoughtful approach to this country doing what it ought to do.

I want to conclude with one additional chart that has some quotes which I think are important. This is the Joint Chiefs of Staff Annual Posture Statement 1999, responding to the question raised by those in the Senate who say the Comprehensive Test Ban Treaty will injure this country's preparedness and security. Nonsense. It says:

> In a very real sense, one of the best ways to protect our troops and our interests is to promote arms control. . . . In both the conventional and nuclear realms, arms control can reduce the chances of conflict. . . . Our efforts to reduce the numbers of nuclear weapons coincide with efforts to control testing of nuclear weapons . . . and the Joint Chiefs support ratification of this treaty.

I want to hear in this debate from those who believe that the Joint Chiefs of Staff, heading the military services in our country, have somehow concluded they want to support something that injures this country's defense. It is preposterous. The Joint Chiefs of Staff support this because they understand it will enhance this country's defense; it will make this country and this world more secure.

Gen. Colin Powell, General Shalikashvili, Adm. William Crowe, and Gen. David Jones said the following:

> We support Senate approval of the Comprehensive Test Ban Treaty together with six safeguards under which the President will be prepared to conduct necessary testing if the safety and reliability of our nuclear deterrent could no longer be verified.

This treaty has safeguards. Gen. Colin Powell says he supports this treaty. It will not injure this country's security or preparedness. I do not think we have to go further on the floor of the Senate. We can have folks come over here and raise their fists, get red in the face, the veins in their necks can bulge, they can hyperventilate, and they can speak loudly about their vision of what this might or might not do with respect to this country's military preparedness. But when they are done, I will ask them to go visit with Colin Powell, I will ask them to visit with General Shelton or the Joint Chiefs of Staff and try to reconcile the position the military leaders in this country have taken with respect to this treaty to the allegations made without a good basis on the floor of the Senate about this treaty.

We are given 14 hours, starting Friday and continuing Tuesday, to debate the Comprehensive Test Ban Treaty. If that is the procedure for debate that exists at the end of this week, then I will be here, and I intend to speak at some length, as will my colleagues, Senator BIDEN and many others, who feel strongly about this.

I look forward to engaging in this debate. I know there are some who are concerned, upset, and nervous about heading toward a vote that looks as if we probably will lose. But I say this: At least we are on the right subject for a change. At least we are talking about the right issue for a change. If talking about the Comprehensive Test Ban Treaty takes goading the majority into saying to us: We are going to give you 10 days with no hearings, essentially, and then we are going to force you to vote and defeat this treaty because that is what we want to tell the world about our position on nuclear weapons and arms control, that is fine with me because we are talking about the right subject.

If we do not ratify this treaty now, we will ratify it next year, and if we do not ratify it next year, then we will ratify it the year after. Because at some point, when 82 percent of the American people want arms control to reduce the spread of nuclear weapons through the ratification of this treaty, and when the Joint Chiefs of Staff say it will not injure the security of this country, at some point the American people will say: We want to have our way on this issue, and we will impress our way on this issue by having the Senate come to this Chamber and vote for ratification. If not now, later. But at some point, the American people will demand this country provide leadership in reducing the threat of nuclear war and reducing the spread of nuclear weapons.

The Senator from Virginia, Mr. WARNER, is on the floor. I mentioned a couple of times—I did not mention his name—but I referred to him as ''the Senator from Virginia.''

I say to Senator WARNER, I mentioned—when I think you were not on the floor—one of my great regrets is that you are not with us on this issue because I have great respect for you and your abilities. I also appreciate the fact that some hearings are being held this week.

But I confess, as I have said, I think this is not a good, thoughtful way to deal with something this important. I am not talking about the Senator's hearings. I am talking about, after 2 years of virtually no activity, saying: All right. Ten days from now we're going to have a vote. In the meantime, we'll cobble together a couple hearings and then figure how we get there, and vote the treaty down, and tell the world that is our judgment.

I do not think that is a good way to do it. I think that is treating the serious too lightly. I do not think it is the best we can do. The better way for us to have done this, in my judgment, is to have decided we would hold a comprehensive set of hearings over a rather lengthy period of time, develop a national discussion about the import and consequence of a treaty of this type, and then have the Senate consider it. That is not what is being done.

If we vote next Tuesday, I am here and I am ready. I am ready Friday and Tuesday to debate it. But I very much wish this had been dealt with in a much more responsible way. By that comment, I do not mean to suggest the Senator from Virginia is in any way involved in that. I, again, appreciate the fact that he is holding some hearings this week, hearing from people who are weighing in on both sides of this issue.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I simply say to my good friend and colleague that I addressed many of the issues he has addressed in the last few minutes in a press conference today that I think covers the work of the Armed Services Committee.

We are trying to do a very thorough job. We have had 10 hours of hearings in the last 48 hours. We will go into lengthy hearings again tomorrow morning.

I thank my friend for his views.

HIGH DENSITY RULE

Mr. MCCAIN. Mr. President, although I have serious reservations with respect to one or two provisions, I rise in support of the amendment by Senators GORTON and ROCKEFELLER to replace the slot-related provisions in the bill.

It won't surprise anyone to hear that my reservations primarily concern Reagan National. It is deeply regrettable that the amendment takes a step backward in terms of competitive access to Reagan National. The Commerce Committee overwhelmingly approved providing 48 slot exemptions for more service. This amendment will cut that number in half. I understand that this bill may not have come to the floor if this compromise had not been made, but I certainly am not happy about it. Nevertheless, some additional access is better than none at all.

The most frustrating aspect of this compromise is that the continued existence of slot and perimeter restrictions at Reagan National flies in the face of every independent analysis of the situation. To support my position, I can quote at length from reports by the General Accounting Office (GAO), the National Research Council, and others, all of which conclude that slots and perimeter rules are anticompetitive, unfair, unneeded, and harmful to consumers. Despite the voluminous support for the fact that these restrictions are bad public policy, we allow them to continue.

Reagan National should not receive special treatment just because it is located inside the Beltway. This amendment will already lead to the eventual elimination of the high density rule at O'Hare, Kennedy, and LaGuardia. If we believe it is good policy at those airports, why is it not the same for Reagan National? Arguments that opening up the airport to more service and competition will harm safety, exceed capacity, or adversely affect other airports in the region are without merit. The GAO recently concluded that the proposals in the committee-reported bill are well within capacity limits and would not significantly impact nearby airports. In addition, the DOT believes that increased flights would not be a safety risk.

With any luck, the wisdom and benefits of increasing airline competition will eventually win out over narrow parochial interests. It saddens me to say that it will not happen today. Another opportunity to do the right thing by the traveling public is being missed.

But my concerns about the Reagan National provisions do not in any way diminish my enthusiastic support for the other competition enhancing provisions in the bill. Eliminating the slot controls at the other restricted airports is a remarkable win for the principle of competition and for consumers. As GAO and others have repeatedly found, more competition leads to lower fares and better service. And in the interim, new entrants and small communities will benefit from enhanced access, which is more good news.

I want to make our intent clear with respect to the provisions that govern the time period before the slot restrictions are lifted. We are providing additional access for new service to small communities and for new entrants and limited incumbent airlines. Because these airports are already dominated by the major airlines, which jealously hold on to slots to keep competitors out, we intentionally limited their ability to take advantage of the new opportunities.

The amendment directs that Secretary of Transportation to treat commuter affiliates of the major airlines the same, for purposes of applying for slot exemptions and for gaining interim access to O'Hare. Let me be perfectly clear about what this provision means. It means the Secretary should consider commuter affiliates as new entrants or limited incumbents for purposes of applying for slot exemptions and interim access to O'Hare. A major airline should not be allowed to game the system and add to its hundreds of daily slots through its commuter affiliates and codeshare partners. Genuine new entrants and limited incumbents are startup airlines that cannot get competitive access to the high density markets.

Many provisions in this amendment are just as that Senate approved them in last year's bill, so I will forgo a discussion of the various studies and other requirements that ensure people residing around these airports have their concerns addressed. Suffice it to say that the FAA and DOT will be very busy monitoring conditions in and around the four affected airports over the next few years. If these provisions begin having seriously adverse impacts, which I do not anticipate, we will certainly know about them.

The benefits of airline deregulation have been proven time and again in

study after study. But the job that Congress started 20 years ago is incomplete. We still retain outdated controls over the market. Even worse, these controls work to the benefit of entrenched interests and to the detriment of consumers and competition. The sooner the Federal Government stops playing favorites in the industry the better off air travelers will be. The majority of provisions in this bill will get us closer to the goal of completing deregulation.

I urge my colleagues to support the Gorton amendment and vote against any second degree amendment that might weaken its move toward a truly deregulated aviation system.

GORTON-ROCKEFELLER AMENDMENT TO S. 82, THE AIR TRANSPORTATION IMPROVEMENT ACT

Mr. HATCH. Mr. President, I appreciate that the Senate has finally acted on S. 82 to reauthorize the FAA and to deal with some of our Nation's air transportation issues.

In particular, I am pleased that the amendment offered by the Senator from Washington and the Senator from West Virginia was adopted to allow exemptions to the current perimeter rule at Ronald Reagan Washington National Airport. I recognize that this is a serious matter affecting a number of cities and high-profile airports, and I commend my colleagues who worked long and hard to develop this amendment.

While I would have preferred that the final bill include the 48 exemptions contained in S. 82 as it was reported by the Commerce Committee, I recognize that reducing this number to 24 reflects a reasonable compromise. I believe the amendment proposed by Senators GORTON and ROCKEFELLER achieves the central objective, which was to maintain the current level of safety while improving air service for the flying public—which is now almost everyone at one time or another. The compromise also assiduously avoids adversely affecting the quality of life for those living within the perimeter.

Today, my constituents in Utah and in other western communities must double or even triple connect to fly into Washington, DC. The Gorton/Rockefeller amendment goes a long way to addressing this inconvenient and time-consuming process and to ensuring that passengers in Utah and the Intermountain West have expanded options.

I believe that use of this limited exemption should be to improve access throughout the west and not limit the benefits to cities which already enjoy a number of options.

Therefore, when considering applications for these slots, I think it is important for the U.S. Department of Transportation to consider carefully these factors and award opportunities to western hubs, such as the one in Salt Lake City, which connects the largest number of cities to the national transportation network. I want U.S. DOT officials to know that I will be carefully monitoring the implementation of the perimeter slot exemption.

I look forward to working with Transportation Department officials as well as my colleagues in the Senate to ensure that the traveling public has the greatest number of options available to them. I thank the chair.

CABIN AIR QUALITY

Mrs. FEINSTEIN. Mr. President, I rise to draw attention to a problem my colleagues on both sides of the aisle have no doubt encountered—poor air quality on commercial airline flights.

Cabin environmental issues have been a part of air travel since the inception of commercial aircraft almost 70 years ago. However, with the exception of the ban on smoking on domestic flights in 1990, no major changes have occurred to improve the quality of air on commercial flights.

Commercial airplanes operate in an environment hostile to human life. According to Boeing, the conditions existing outside an airplane cabin at modern cruise altitudes off 35,000 feet, are no more survivable by humans than those conditions that would be encountered outside a submarine at extreme ocean depths.

To make air travel more conducive to passengers and flight crews, airplanes are equipped with advanced Environmental Control Systems. While these systems are designed to control cabin pressurization, ventilation and temperature control, they have not diminished the number of health complaints reported by travelers.

It should come as no surprise to my colleagues that the most common complaints from passengers and flight crew are headaches, dizziness, irritable eyes and noses, and exposure to cold and flu. With the amount we travel, I would not be surprised to learn some of my friends in the Senate have suffered some of these symptoms themselves. But complaints of illness do not stop there. Some passengers complaints are as serious as chest pains or nervous system disorders. This is a serious consideration and should be addressed.

Airlines say the most common complaints are a result of the reduction in humidity at high altitudes, or of individuals sitting in close proximity to one another. Airlines even say the air on a plane is better than the air in the terminal. But the airplane cabin is a unique, highly stressful environment. It's low in humidity, pressurized up to a cabin altitude of 8,000 feet above sea level and subject to continuous noise, vibration and accelerations in multiple directions. Air in the airplane cabin is not comparable with air in the airport terminal. It's apples and oranges.

The American Society of Heating, Refrigerating and Air-Conditioning Engineers—or ASHRAE—recently released standards it found suitable for human comfort in a residential or office building. ASHRAE determined that environmental parameters such as air temperature and relative humidity—and nonenvironmental parameters such as clothing insulation and metabolism—all factored in to create a comfortable environment. Airlines immediately chimed in, saying average cabin temperatures and air factors fell within the ASHRAE guidelines for comfort.

But once again, the air in an airplane cabin is not comparable to air in an office building. The volume, air distribution system, air density, relative humidity, occupant density, and unique installations such as lavatories, galleys all make for a unique condition. The ASHRAE guidelines simply do not translate to the airplane cabin.

It is high time we make a concerted effort to study the air quality on our commercial flights and make some changes. Studies done by the airlines are simply not thorough enough. My amendment directs the Secretary of Transportation—in conjunction with the National Academy of Sciences—to conduct a study of the air on our flights. After completion of the 1-year study, the results will be reported to Congress. It is my sincere hope this will be a step toward more comfortable travel conditions for everyone.

I thank the Chair.

JUDICIAL NOMINATIONS

Mr. BUNNING. Mr. President, I voted yesterday to oppose the nominations of Ronnie White to serve as District Court Judge for the Eastern District of Missouri, and Raymond C. Fisher to sit on the Ninth U.S. Circuit Court of Appeals.

As a newly elected member of the Senate, I am acutely aware of our obligation to confirm judges to sit on the Federal courts who will enforce the law without fear or favor.

But, after carefully considering Judge White's record, I am compelled to vote ''no.'' I believe that he has evidenced bias against the death penalty from his seat on the Missouri Supreme Court, even though it is the law in that State. He has voted against the death penalty more than any other judge on that panel, and I am afraid that he would use a lifetime appointment to the Federal bench to push the law in a procriminal direction rather than deferring interpreting the law as written and adhering to the legislative will of the people.

Although Judge Fisher has been recognized as ''thoughtful liberal,'' I cannot in good conscience vote to appoint him to serve a lifetime appointment to the Ninth Circuit Court. Over the last decade, the Ninth Circuit has been a fertile breeding ground for liberal judges to advance their activist agenda—a fact evidenced by the Supreme Court's consistent reversal of cases referred to them from the Ninth Circuit—and I am afraid that Judge Fisher would continue this disturbing

trend. Probably more than any other circuit in the America, the views of the Ninth Circuit are unquestionably out of alignment with mainstream America, and I believe the panel badly needs a sense of judicial balance. I do not believe that Judge Fisher would have helped to provide that balance.

AMERICA'S HEALTH CARE

Mr. GRAMM. Mr. President, I wish to bring to the attention of my colleagues one of the most insightful articles that I have read in regard to the most effective way to promote health care and patient's rights.

Written by Mr. M. Anthony Burns of Ryder System Inc., the comments appear on the op-ed page of yesterday's Washington Post. Mr. Burns speaks as the CEO of a company which provides health care benefits for 80,000 employees and family members. At a time when courage appears to be in short supply, it is refreshing to find a person who is able and willing to publicly examine a complex issue in such a lucid, thoughtful manner.

I encourage all my colleagues to read and consider carefully the analysis offered by Mr. Burns. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1999]

AN ASSAULT ON AMERICA'S HEALTH CARE

(By M. Anthony Burns)

As the CEO of a $5 billion transportation company, when I need legal advice, I listen to the experts. Congress should do the same when it considers the Dingell-Norwood ''Patients' Bill of Rights,'' which would allow patients to sue their HMOs but would also make employers liable in state court for the health care benefits they provide.

The sponsors claim their legislation includes an exemption to shield employers from liability, but Reps. John Dingell and Charlie Norwood are just dead wrong on that. A new study prepared by independent legal experts shows this so-called employers' ''shield'' is nothing more than a legal mirage that provides only the illusion of protection. In reality, very few companies could withstand the lawsuit exposure this bill would impose on every business in America.

David Kenty and Frank Sabatino, experts in employee benefits law and co-authors of the publication ''ERISA: A Comprehensive Guide,'' found that under the Dingell-Norwood bill ''employers would be subject to state law causes of action replete with jury trials, extra-contractual damages, and punitive damages.'' This would ''dramatically change the way that group health benefits claims are litigated in the United States,'' conclude the authors. ''Anyone who claims the contrary is simply failing to comprehend the thrust of the legislation.''

Trial lawyers could initiate lawsuits against employers based on a number of legal arguments, according to Kenty and Sabatino.

First, plaintiffs could argue that insurance companies or third-party administrators are merely the agents of the employer and therefore—shield language notwithstanding—the employer is also responsible.

Second, a lawyer could argue that by selecting one health care provider over another, the employer's discretionary decisions played an integral part in a particular employee/patient outcome.

Third, most employers commonly retain the right to override the decisions of their health care provider or fiduciary to enable them to serve as patient advocates for their employees. The Dingell-Norwood bill would turn that relationship on its ear, forcing most companies to abandon their advocacy role altogether.

Supporters of the lawsuit provisions scoff at the notion that trial attorneys would abuse the health care system or employers who provide insurance. Tell that to the West Virginia convenience store that got hit with a $3 million judgment when one of its workers injured her back opening a pickle jar.

The likely epidemic of litigation this kind of legislation would generate creates an impossible choice for employers. They can continue to provide health care coverage and risk financial disaster if they find themselves on the losing end of a health care lawsuit, whether they had anything to do with treatment decisions or not. Or they can stop providing health care altogether.

In fact, according to a recent survey of small business owners, six out of 10 reported they would be forced to end employee coverage rather than face this risk. Today my company, Ryder, provides top quality health care benefits to 22,000 employees covering more than 80,000 people. We monitor employee satisfaction with our health care providers, and we act as a strong advocate for employees in disputes with these providers.

But if Dingell-Norwood passes, we will be forced to seriously reevaluate whether and how we can continue to offer health benefits to our employees. As with most businesses today, the exposure could simply be too severe for us. It would put our traditional employer-provided system of health care at extreme risk.

Add rising health care costs to this new threat of expensive litigation and it's clear that this legislation is a prescription for disaster. Last year healath care costs went up 6 percent and the average employer spent $4,000 per employee on health care. This year, health care costs are expected to go up an average 9 percent, and potentially much higher for small businesses.

As a result, it will be harder for employers to offer health insurance and, as some costs are passed on, harder for workers to afford it. Research shows that every one percent increase in costs forces 300,000 more people to lose their health care coverage.

A lot of people agree that ''right-to-sue'' provisions don't make sense for either employers or employees. The U.S. Senate, 25 state legislatures and President Clinton's own hand-picked Health Care Quality Commission all refused to support similar provisions to expand liability.

Congress says it wants to make managed care more accountable, but Dingell-Norwood would only raise health care costs, increase the number of uninsured and punish the nation's employers who voluntarily provide health care to millions of American workers and their families.

This legislation isn't a ''Patients' Bill of Rights.'' It's a devastating assault on America's health care system, and Congress should reject it.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 5, 1999, the Federal debt stood at $5,657,493,668,389.71 (Five trillion, six hundred fifty-seven billion, four hundred ninety-three million, six hundred sixty-eight thousand, three hundred eighty-nine dollars and seventy-one cents).

One year ago, October 5, 1998, the Federal debt stood at $5,527,218,000,000 (Five trillion, five hundred twenty-seven billion, two hundred eighteen million).

Five years ago, October 5, 1994, the Federal debt stood at $4,692,973,000,000 (Four trillion, six hundred ninety-two billion, nine hundred seventy-three million).

Ten years ago, October 5, 1989, the Federal debt stood at $2,878,570,000,000 (Two trillion, eight hundred seventy-eight billion, five hundred seventy million).

Fifteen years ago, October 5, 1984, the Federal debt stood at $1,572,268,000,000 (One trillion, five hundred seventy-two billion, two hundred sixty-eight million) which reflects a debt increase of more than $4 trillion—$4,085,225,668,389.71 (Four trillion, eighty-five billion, two hundred twenty-five million, six hundred sixty-eight thousand, three hundred eighty-nine dollars and seventy-one cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 559. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building.''

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2606, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes

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At 11:36 a.m., a message from the House of Representative, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 1663. An act to recognize National Medal of Honor sites in California, Indiana, and South Carolina.

H.R. 764. An act to reduce the incidence of child abuse and neglect, and for other purposes.

H.R. Res. 65. Joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes.

ENROLLED BILLS SIGNED

At 5:29 p.m. a message from the House of Representatives, delivered by Mr. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2606. An act making appropriations for foreign operations, export financing, and belted programs for the fiscal year ending September 30, 2000, and for other purposes.

S. 559. An act to designate the Federal building located at 33 East 8th Street in Austin, Texas, as the ''J.J. ''Jake'' Pickle Federal Building.''

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills and joint resolutions were read the first and second time by unanimous consent and referred as indicated:

H.R. 1663. An act to recognize National Medal of Honors sites in California, Indiana, and South Carolina; to the Committee on Armed Services.

H.R. 764. An act to reduce the incidence of child abuse and neglect, and for other purposes, to the Committee on the Judiciary.

H.J. Res. 65. Joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes; to the Committee on Judiciary.

MEASURE PLACE ON THE CALENDAR

The following bill was read the second time and placed on the calendar.

S. 1692. A bill to amend title 18, Untied States Code, to ban partial-birth abortions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5502. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–5503. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–5504. A communication from the Chairman, the J. William Fulbright Foreign Scholarship Board, transmitting, pursuant to law, the 1998 annual report; to the Committee on Foreign Relations.

EC–5505. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–5506. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Foreign Assistance Act of 1961, a report relative to Indonesia; to the Committee on Foreign Relations.

EC–5507. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the International Fund for Ireland; to the Committee on Foreign Relations.

EC–5508. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of the People's Counsel Agency Fund for Fiscal Year 1997''; to the Committee on Governmental Affairs.

EC–5509. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of the Public Service Commission Agency Fund for Fiscal Year 1997''; to the Committee on Governmental Affairs.

EC–5510. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of the People's Counsel Agency Fund for Fiscal Year 1998''; to the Committee on Governmental Affairs.

EC–5511. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Audit of the Public Service Commission Agency Fund for Fiscal Year 1998''; to the Committee on Governmental Affairs.

EC–5512. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Observed Weaknesses in the District's Early Out Retirement Incentive Program''; to the Committee on Governmental Affairs.

EC–5513. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Chronology of the Steps Through Which the Tentative Agreement Between the Washington Teachers Union AFT Local #6, AFL–CIO and the District of Columbia Public Schools Passed''; to the Committee on Governmental Affairs.

EC–5514. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Auditors Review of Unauthorized Transactions Pertaining to ANC 1A''; to the Committee on Governmental Affairs.

EC–5515. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Auditors Review of Unauthorized and Improper Transactions of ANC 7C's Chairperson''; to the Committee on Governmental Affairs.

EC–5516. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Change in Survey Cycle for the Southwest Michigan Appropriated Fund Wage Area'' (RIN3206–AI68), received October 4, 1999; to the Committee on Governmental Affairs.

EC–5517. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Redefinition of the Eastern South Dakota and Wyoming Appropriated Fund Wage Areas'' (RIN3206–AI74), received October 4, 1999; to the Committee on Governmental Affairs.

EC–5518. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to additions to and deletions from the Procurement List, received September 30, 1999; to the Committee on Governmental Affairs.

EC–5519. A communication from the Chairman and CEO, Chemical Safety and Hazard Investigation Board, transmitting, pursuant to law, a report relative to the annual inventory of agency activities which could be considered for performance by the private sector; to the Committee on Governmental Affairs.

EC–5520. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to its commercial activities inventory of the Department; to the Committee on Governmental Affairs.

EC–5521. A communication from the Archivist of the United States, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5522. A communication from the Director, Federal Mediation and Conciliation Service, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5523. A communication from the Chairman, U.S. Commission for the Preservation of America's Heritage Abroad, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5524. A communication from the Acting Director, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5525. A communication from the Director, Office of Government Ethics, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5526. A communication from the President, James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5527. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM—361. A resolution adopted by the City Council of the City of Fond du Lac, Wisconsin relative to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on Foreign Relations.

POM—362. A joint resolution adopted by the Legislature of State of California relative to war crimes committed by the Japanese military during World War II; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 27

Whereas, Our nation is founded on democratic principles that recognize the vigilance with which fundamental individual human rights must be safeguarded in order to preserve freedom; and

Whereas, This resolution condemns all violations of the international law designed to safeguard fundamental human rights as embodied in the Geneva and Hague Conventions; and

Whereas, This resolution vociferously condemns all crimes against humanity and at the same time condemns the actions of those who would use this resolution to further an agenda that fosters anti-Asian sentiment and racism, or Japan ''bashing,'' or otherwise fails to distinguish between Japan's war

criminals and Americans of Japanese ancestry; and

Whereas, Since the end of World War II, Japan has earned its place as an equal in the society of nations, yet the Government of Japan has failed to fully acknowledge the crimes committed during World War II and to provide reparations to the victims of those crimes; and

Whereas, While high ranking Japanese government officials have expressed personal apologies, supported the payment of privately funded reparations to some victims, and modified some textbooks, these efforts are not adequate substitutes for an apology and reparations approved by the Government of Japan; and

Whereas, The need for an apology sanctioned by the Government of Japan is underscored by the contradictory statements and actions of Japanese government officials and leaders of a ''revisionist'' movement who openly deny that war crimes took place, defend the actions of the Japanese military, seek to remove the modest language included in textbooks, and refuse to cooperate with United States Department of Justice efforts to identify Japanese war criminals; and

Whereas, During World Was II, 33,587 United States military and 13,966 civilian prisoners of the Japanese military were confined in inhumane prison camps where they were subjected to forced labor and died unmentionable deaths; and

Whereas, The Japanese military invaded Nanking, China, from December 1937 until February 1938, during the period known as the ''Rape of Nanking,'' and brutally slaughtered, in ways that defy description, by some accounts as many as 300,000 Chinese men, women, and children and raped more than 20,000 women, adding to a death toll that may have exceeded millions of Chinese; and

Whereas, The people of Guam and the Marshall Islands, during the Japanese occupation from 1941–1944, were subjected to unmentionable acts of violence, including forced labor and marches, and imprisonment by the Japanese military during its occupation of these islands; and

Whereas, Three-fourths of the population in Port Blair on Andaman Islands, India, were exterminated by Japanese troops between March 1942 and the end of World War II; many were tortured to death or forced into sexual slavery at ''comfort stations,'' and crimes beyond description were committed on families and young children; and

Whereas, at the February 1945 ''Battle of Manila,'' 100,000 men, women, and children were killed by Japanese armed forces in inhumane ways, adding to a total death toll that may have exceeded one million Filipinos during the Japanese occupation of the Philippines, which began in December 1941 and ended in August 1945; and

Whereas, At least 260 of the 1,500 United States prisoners, including many Californians, believed to have been held at Mukden, Manchuria, died during the first winter of their imprisonment and many of the 300 living survivors of Mukden claim to suffer from physical ailments resulting from their subjection to Japanese military chemical and biological experiments; and

Whereas, The Japanese military enslaved millions of Koreans, Chinese, Filipinos, and citizens from other occupied or colonized territories during World War II, and forced hundreds of thousands of women into sexual slavery for Japanese troops; and

Whaeras, The International Commission of Jurists, a nongovernmental organization (NGO) in Geneva, Switzerland, ruled in 1993 that the Government of Japan should pay reparations of at least $40,000 for the ''extreme pain and suffering'' caused to each woman who was forced into sexual slavery by the Japanese military (referred by the Japanese military as ''comfort women''), yet none of these women have been paid any compensation by the Government of Japan: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urges the Government of Japan to finally bring closure to concerns relating to World War II by doing both of the following:

(1) Formally issuing a clear and unambiguous apology for the atrocious war crimes committed by the Japanese military during World War II.

(2) Immediately paying reparations to the victims of those crimes, including, but not limited to, United States military and civilian prisoners of war, the people of Guam and the Marshall Islands, who were subjected to violence and imprisonment, the survivors of the ''Rape of Nanking'' from December 1937 until February 1938, and the women who were forced into sexual slavery and known by the Japanese military as ''comfort women''; and be it further

Resolved, That the Legislature of the State of California calls upon the United States Congress to adopt a similar resolution that follows the spirit and letter of this resolution calling on the Government of Japan to issue a formal apology and pay reparations to the victims of its war crimes during World War II; and be it further

Resolved, That the Legislature of the State of California requests that the President of the United States take all appropriate action to further bring about a formal apology and reparations by the Government of Japan to the victims of its war crimes during World War II; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Japanese Ambassador to the United States, the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and each California Member of the Senate and the United States House of Representatives.

POM–363. A resolution adopted by the Council of the City of Cincinnati, Ohio relative to the proposed Medicaid primary care safety net preservation legislation; to the Committee on Finance.

POM–364. A joint resolution adopted by the Legislature of the State of California relative to the California film industry; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 23

Whereas, The film industry is a major contributor to the California economy. It was one of the main drivers of the California comeback as the state recovered from the protracted recession of 1991, however, other countries aggressively promote incentives for filming outside of California. This competition translates into a significant share of tax revenue that is not directed to California. According to published estimates by the Motion Picture Association of America (MPAA), every one percent of entertainment jobs in California represents about $9 million in state tax revenue; and

Whereas, The MPAA also notes that most forecasts predict that the demand for motion picture, television, and commercial products will increase. The issue is whether the future economic activity that this growth may generate will occur in California or elsewhere; and

Whereas, The film industry has a significant effect on other industries, including the multimedia industry, tourism, toys, games, and industries that perpetuate the ''California look'' in apparel and furniture manufacturing. This is part of the residual effect of the film industry; and

Whereas, The enormity of the film industry makes it an important contributor of tax revenue to this state; and

Whereas, While there is an abundance of available labor in the film industry in the Los Angeles region, many below-the-line union workers are currently unemployed; and

Whereas, Canada is enticing entertainment industry jobs out of this country by offering significant tax credits to United States production companies. This practice is resulting in less work for American film crews as more and more movies, TV series, sitcoms, miniseries, etc. are being relocated there; and

Whereas, A continued exodus of motion picture and television production to foreign countries such as Canada will not only eliminate thousands of well-paying jobs, it will mean the United States will lose a growing and very lucrative industry that it created: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to evaluate the problems caused by relocating film industry business to Canada and other foreign nations, to evaluate the current state and federal tax incentives provided to the film industry, and to promote trade-related legislation that will persuade the film industry to remain in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate of the United States, and to each Senator and Representative from California in the Congress of the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1398. A bill to clarify certain boundaries on maps relating to the Coastal Barrier Resources System (Rept. No. 106–171).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 769. A bill to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for the construction of the bascule gates on the Dickinson Dam (Rept. No. 106–172).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 986. A bill to direct the Secretary of the Interior to convey the Griffith Project to the Southern Nevada Water Authority (Rept. No. 106–173).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 1030. A bill to provide that the conveyance by the Bureau of Land Management of the surface estate to certain land in the State of Wyoming in exchange for certain private land will not result in the removal of the land from operation of the mining laws (Rept. No. 106–174).

S. 1211. A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner (Rept. No. 106–175).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1288. A bill to provide incentives for collaborative forest restoration projects on National Forest System and other public lands

in New Mexico, and for other purposes (Rept. No. 106–176).

S. 1377. A bill to amend the Central Utah Project Completion Act regarding the use of funds for water development for the Bonneville Unit, and for other purposes (Rept. No. 106–177).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1694. A bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; to the Committee on Energy and Natural Resources.

By Mr. BUNNING:

S. 1695. A bill to amend the Internal Revenue Code of 1986 to provide that beer or wine which may not be sold may be transferred to a distilled spirits plant, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. ROTH, and Mr. SCHUMER):

S. 1696. A bill to amend the Convention on Cultural Property Implementation Act to improve the procedures for restricting imports of archaeological and ethnological material; to the Committee on Finance.

By Mr. SMITH of Oregon (by request):

S. 1697. A bill to authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982; to the Committee on Energy and Natural Resources.

By Mr. GRAMS:

S. 1698. A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota, and for other purposes; to the Committee on the Judiciary.

By Mr. VOINOVICH:

S. 1699. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S. 1700. A bill to amend the Federal Rules of Criminal Procedure to allow a defendant to make a motion for forensic testing not available at trial regarding actual innocence; to the Committee on the Judiciary.

By Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. THURMOND, Mr. BIDEN, Mrs. FEINSTEIN, Mr. HELMS, and Mr. CLELAND):

S. 1701. A bill to reform civil asset forfeiture, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1702. A bill to amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native children and their descendants, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 1703. A bill to establish America's education goals; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 1704. A bill to provide for college affordability and high standards.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAMS:

S. Res. 197. A resolution referring S. 1698 entitled ''A bill for the relief of D.W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota'' to the chief judge of the United States Court of Federal Claims for a report thereon; to the Committee on the Judiciary.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1694. A bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, today I introduced S. 1694, the Hawaii Water Resources Reclamation Act of 1999. Senator INOUYE joins me in sponsoring this legislation.

My colleagues, rural Hawaii faces difficult economic times. The past decade has been especially challenging for agriculture in our state. Sugar has declined dramatically, from 180,000 acres of cane in 1989 to 60,000 acres today, and with this decline has come tremendous economic disruption.

120,000 acres may not seem like much to Senators from large states of the continental U.S., but in Hawaii the loss has huge implications. 120,000 acres represents more than 45 percent of our cultivated farm land. Hawaii County, where the greatest impact of these losses is felt, faces double digit unemployment.

As Carol Wilcox, author of the definitive history of irrigation in Hawaii noted in her recent book ''Sugar Water,'' the cultivation of sugarcane dominated Hawaii's agricultural landscape for the last 25 years of the 19th century and for most of this century as well. ''Sugar was the greatest single force at work in Hawaii,'' she wrote, and water was essential to this development.

The face of Hawaii agriculture is changing. During the past decade, 95 sugar farms and plantations closed their doors. Today, many rural communities in Hawaii are struggling to define new roles in an era when sugar is no longer the king of crops. We have entered a period of rebirth. A new foundation for agriculture is being established.

Diversified agriculture has become a bright spot in our economy. Farm receipts from diversified crops rose an average of 5.5 percent annually for the past three years, surpassing the $300 million mark for the first time. Hawaii still grows sugarcane, but diversified farming represents the future of Hawaii agriculture.

The restructuring of agriculture has prompted new and shifting demands for agricultural water and a broad reevaluation of the use of Hawaii's fresh water resources. The outcome of these events will help define the economic future of rural Hawaii.

While the Bureau of Reclamation played a modest role in Hawaii water resource development, sugar plantations and private irrigation companies were responsible for constructing, operating, and maintaining nearly all of Hawaii's agricultural irrigation systems. Over a period of 90 years, beginning in 1856, more than 75 ditches, reservoirs, and groundwater systems were constructed.

Although Hawaii's irrigation systems are called ditches, the use of this term misrepresents their magnitude. Hawaii's largest ditch system, the East Maui Irrigation Company, operates a network of six ditches on the north flank of Haleakala Crater. The broad scope of East Maui irrigation is extensively chronicled in ''Sugar Water'':

> Among the water entities, none compares to EMI. It is the largest privately owned water company in the United States, perhaps in the world. The total delivery capacity is 445 mgd. The average daily water delivery under median weather conditions is 160 mgd . . . Its largest ditch, the Wailoa Canal, has a greater median flow (170 mgd) than any river in Hawaii . . . The [EMI] replacement cost is estimated to be at $200 million.

Most of Hawaii's irrigation systems—ditches as we know them—are in disrepair. Some have been abandoned. Those that no longer irrigate cane lands may not effectively serve the new generation of Hawaii farmers, either because little or no water reaches new farms or because the ditches have not been repaired or maintained. Thus, the wheel has turned full circle: the challenge that confronted six generations of cane farmers, access to water, has become the challenge for a new generation that farms diversified agriculture.

In response to these changing events, the Hawaii Water Resources Reclamation Act authorizes the Bureau of Reclamation to survey irrigation and water delivery systems in Hawaii, identify the cost of rehabilitating the systems, and evaluate demand for their future use. The bill also instructs the Bureau to identify new opportunities for reclamation and reuse of water and wastewater for agriculture and non-agricultural purposes. Finally, the bill authorizes the Bureau to conduct emergency drought relief in Hawaii. This is especially important for struggling farmers on the Big Island.

While I hesitate to predict the findings of the Bureau's study, I expect we will learn that some of the ditch systems should be repaired or improved, while others should be abandoned. We may also learn that the changing face of Hawaii agriculture justifies entirely new systems or new components being added to existing ditches. Because the bill emphasizes water recycling and reuse, the report will identify opportunities to improve water conservation, enhance stream flows, improve fish and

wildlife habitat, and rebuilding groundwater supplies. These important objectives will help ensure that any legislative response to the Bureau's report is ecologically appropriate.

The process outlined in S. 1694 cannot advance unless sound environmental principles are observed. Those who are for Hawaii's rivers and streams, as I do, believe that water resource development should not adversely affect fresh water resources and the ecosystems that depend upon them. Hawaii's rivers support a number of rare native species that rely on undisturbed habitat. Perhaps the most remarkable of these is the goby, which actually climbs waterfalls, reaching habitat that is inaccessible to other fish. As a young boy, my friends and I caught and ate o'opu, as the goby are known to Hawaiians, at Oahu's streams. I am determined to preserve this, and the other forms of rich biological heritage that inhabit our streams and watersheds.

My remarks would not be complete without a review of the history of Federal reclamation initiatives in Hawaii. Hawaii's relationship with the Bureau of Reclamation dates from 1939, when the agency proposed developing an aqueduct on Molokai to serve 16,000 acres of federally managed Hawaiian Home Lands. While this project did not proceed, in 1954 Congress directed the Bureau to investigate irrigation and reclamation needs for three of our islands: Oahu, Hawaii, and Molokai. A Federal reclamation project on the Island of Molokai was eventually constructed in response to this investigation. The project continues in operation today.

In the first session of Congress following Hawaii's statehood, legislation authorizing the Secretary of the Interior to develop reclamation projects in Hawaii under the Small Reclamation Projects Act was signed into law. The most recent interaction with the Bureau occurred in 1995 when Congress authorized the Secretary to allow Native Hawaiians the same favorable cost recovery for reclamation projects as Indians or Indian tribes.

I will work closely with my colleagues on the Senate Energy and Natural Resources Committee to pass the Hawaii Water Resources Reclamation Act. I ask that a copy of S. 1694 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1694

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 ''Hawaii Water Resources Reclamation Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Act of August 23, 1954 (68 Stat. 773, chapter 838) authorized the Secretary of the Interior to investigate the use of irrigation and reclamation resource needs for areas of the islands of Oahu, Hawaii, and Molokai in the State of Hawaii;

(2) section 31 of the Hawaii Omnibus Act (43 U.S.C. 422*l*) authorizes the Secretary to develop reclamation projects in the State under the Act of August 6, 1956 (70 Stat. 1044, chapter 972; 42 U.S.C. 422a et seq.) (commonly known as the ''Small Reclamation Projects Act'');

(3) the amendment made by section 207 of the Hawaiian Home Lands Recovery Act (109 Stat. 364; 25 U.S.C. 386a) authorizes the Secretary to assess charges against Native Hawaiians for reclamation cost recovery in the same manner as charges are assessed against Indians or Indian tribes;

(4) there is a continuing need to manage, develop, and protect water and water-related resources in the State; and

(5) the Secretary should undertake studies to assess needs for the reclamation of water resources in the State.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means the State of Hawaii.

SEC. 4. WATER RESOURCES RECLAMATION STUDY.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall conduct a study that includes—

(1) a survey of irrigation and water delivery systems in the State;

(2) an estimation of the cost of repair and rehabilitation of the irrigation and water delivery systems;

(3) an evaluation of options for future use of the irrigation and water delivery systems (including alternatives that would improve the use and conservation of water resources); and

(4) the identification and investigation of other opportunities for reclamation and reuse of water and wastewater for agricultural and nonagricultural purposes.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report that describes the findings and recommendations of the study described in subsection (a) to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Resources of the House of Representatives.

(2) ADDITIONAL REPORTS.—The Secretary shall submit to the Committees described in paragraph (1) any additional reports concerning the study described in subsection (a) that the Secretary considers to be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 5. WATER RECLAMATION AND REUSE.

Section 1602(b) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(b)) is amended by inserting before the period at the end the following: '', and the State of Hawaii''.

SEC. 6. DROUGHT RELIEF.

Section 104 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214) is amended—

(1) in subsection (a), by inserting after ''Reclamation State'' the following: ''and in the State of Hawaii''; and

(2) in subsection (c), by striking ''ten years after the date of enactment of this Act'' and inserting ''on September 30, 2005''.

By Mr. MOYNIHAN (for himself, Mr. ROTH and Mr. SCHUMER):

S. 1696. A bill to amend the Convention on Cultural Property Implementation Act to improve the procedures for restricting imports of archaeological and ethnological material; to the Committee on Finance.

THE CULTURAL PROPERTY PROCEDURAL REFORM ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to amend the Convention on Cultural Property Implementation Act (CCPIA). This legislation improves the procedures for restricting imports of archaeological and ethnological materials. I am pleased that the distinguished chairman of the Finance Committee, Senator ROTH, joins me, as well as my distinguished colleague from New York, Senator SCHUMER.

This legislation provides a necessary clarification of the Convention on Cultural Property Implementation Act. The CCPIA was reported by the Senate Finance Committee and passed in the waning days of the 97th Congress. The CCPIA implements the 1970 UNESCO Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Ownership of Cultural Property. It sets forth our national policy concerning the importation of cultural property. As the last of the authors of the CCPIA remaining in the Senate, it falls to me to keep a close eye on its implementation.

Central to our intention in drafting the CCPIA was the principle that the United States will act to bar the importation of particular antiquities, but only as part of a concerted international response to a specific, severe problem of pillage. The CCPIA established an elaborate process to ensure that the views of experts—archaeologists, ethnologists, art dealers, museums—and the public, are taken fully into account when foreign governments ask us to bar imports of antiquities. The Congress put these safeguards in place with the specific intent to provide due process.

The need for this bill arises from the recent proliferation of import restrictions imposed on archaeological and ethnological artifacts from a number of countries, including Canada and Peru. Restrictions may soon be imposed on imports from Cambodia, and I am told that the Government of Italy has now requested that the United States impose a sweeping embargo on archaeological material dating from the 8th century B.C. to the 5th century A.D.

My understanding is that the standards and procedures the Congress meant to introduce in the CCPIA are not being followed. The chief concerns are two-fold: (1) the Cultural Property Advisory Committee, which reviews all requests for import restrictions, remains essentially closed to non-members despite the provisions of the 1983 Cultural Property Act—which I co-authored with Senators Dole and Matsunaga—that call for open meetings and transparent procedures; and (2) the Committee lacks a knowledgeable art

dealer—in large part because the Executive Branch has interpreted the statute—incorrectly, in my view—to require that Committee members serve as ''special government employees'' rather than—as was intended—''representatives''—of dealers. Candidates have thus been subjected to insurmountable conflict-of-interest rules that have effectively prevented experts from serving on the Committee—the very individuals whose advice ought to be sought.

The amendments I offer today would open up the proceedings of the Cultural Property Advisory Committee and the administering agency (formerly USIA, now an agency under the Department of State) to allow for meaningful public participation in the fact-finding phase of an investigation, i.e., the stage at which the Committee and the agency review the factual basis for a country's request for import restrictions. The bill would require that notice of such a request be published in the Federal Register, that interested parties be provided an opportunity to comment, and that the Committee issue a public report of its findings in each case. Once the evidence is gathered, the Committee would, as under current law, be permitted to conduct its deliberations behind closed doors so as not to jeopardize the government's negotiating objectives or disclose its bargaining position.

The amendments would also clarify that Cultural Property Advisory Committee members are to serve only in a ''representative'' capacity—as is the case with members of the President's trade advisory committees—and not as ''special government employees.'' It was my clear understanding, as one of the chief drafters of the law, that members of the Advisory Committee would be acting in a representative capacity. The CCPIA sought to ensure that there would be a ''fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials,'' by designating members to represent those various perspectives. The CCPIA reserves specific slots on the Advisory Committee for representatives of the affected interest groups, including as I mentioned earlier, art dealers. The special conflict-of-interest provisions applicable to ''special government employees'' would probably prevent any active art dealer knowledgeable in the affected areas of trade from serving on the Committee, depriving the Committee of invaluable expertise.

This bill, clarifying Congressional intent, is essential to successful implementation of the CCPIA. If I may ask the Senate's indulgence, I would like to summarize the key provisions of the bill:

Procedural requirements.—The bill amends Section 303(f)(2) of the CCPIA to provide that a foreign nation's request for relief shall include a detailed description of the archaeological or ethnological material that a party to the 1970 Cultural Property Convention seeks to protect and a comprehensive description of the evidence submitted in support of the request. This information is to be included in the Federal Register notice required to initiate proceedings under the CCPIA.

The purpose of this amendment is to provide interested parties with adequate notice of the nature of a foreign nation's request and the evidence in support of an allegedly serious condition of pillage, which is evidence essential to any response under CCPIA. In the past, proceedings before the CPAC and the administering agency (formerly USIA, now an agency under the Department of State) have been conducted almost in total secrecy, thus denying interested parties the opportunity to prepare rebuttal and response to the evidence presented by a foreign nation on alleged pillage and with respect to the other statutory requirements that must be satisfied. The result is that the Committee is denied a full, unbiased record upon which to make its decisions.

The bill also amends Section 303(f)(1)(C) of the CCPIA to provide that interested parties shall have an opportunity to provide comments to Executive Branch decision-makers on the findings and recommendations of the CPAC, which are to be made public under a separate provision of the bill. To date, interested parties have not had an effective opportunity to bring their perspectives to the attention of the statutory decision-maker.

Proceedings before the committee.—The bill amends Section 306(f)(1) of the CCPIA to provide that the procedures before the Advisory Committee shall be conducted to afford full participation by interested parties in the fact-finding phase of the CPAC review.

This provision draws a clear line between the fact-finding investigation and the deliberative review phases of the Committee's proceedings and provide for full public participation in the fact-finding phase. It also responds to concerns that, under current procedures, the Committee is denied full information from interested parties relating to the foreign nation's request because there is no public information about the specific nature of a request nor of the data supporting it.

Also, in an amendment to Section 306(f)(1) of the CCPIA, the Committee is directed to prepare, and then publish in the Federal Register, a report which includes, inter alia, its findings with respect to each of the criteria described in Section 301(a)(1) of the Act, which sets forth the requirements that must be met before import restrictions may be imposed. This amendment is essential to ensure that the Committee faithfully responds to each of the statutory criteria.

Import restrictions.—Our bill amends Section 303(a)(1)(A) of the CCPIA, dealing with the authority to impose restrictions, to make clear that there must be evidence of pillage which supports the full range of any import restrictions under the CCPIA and that such evidence must reflect contemporary pillage. Evidence of contemporary pillage is essential to the working of the Act, which is based on the concept that a U.S. import restriction will have a meaningful effect on an ongoing situation of pillage.

There is striking evidence that the Committee and the administering agency are now promulgating broad-scale import restrictions where there is no evidence of contemporary pillage that would justify the scope of those restrictions. Recent examples include omnibus import restrictions involving cultural property from Canada and Peru, extending over thousands of years. Vast portions of the Canadian restrictions were supported by no evidence whatsoever of contemporary pillage. Likewise, the Peruvian restrictions extend far beyond any evidence of current pillage contained in the administrative record. I am told that the Government of Italy has now requested that the United States impose a sweeping embargo on Italian archaeological materials dating from the 8th century B.C. to the 5th century A.D.

This provision also makes clear that an import embargo cannot be based on historical evidence of pillage; rather, there must be contemporary pillage. This amendment responds to recent instances where the committee has made recommendations, which the agency has accepted, based upon evidence of pillage that is many years old, and indeed, evidence of pillage that occurred hundreds of years previously. It is quite obvious that an import restriction in 1999 cannot deter pillage that took place decades or even centuries ago. This provision is imperative to ensure that the administrative process under the act is faithful to the statutory goals of CCPIA.

Continuing review.—Our bill amends section 306(g) of the act to make more specific the obligation of the committee to conduct reviews, on an annual basis, of existing agreements providing for import restrictions; to publish in the Federal Register the conclusions of such reviews; and to report on those agreements not reviewed during the preceding year and the reasons why such agreements were not reviewed. The amendment provides for full public participation in the fact-finding phase of the annual reviews. It is prompted by the committee's failure to undertake, with full public participation, a prompt review of existing import restrictions, particularly those relating to Canada, for which serious questions have been raised as to the claims of pillage made in support of the omnibus U.S. import restrictions.

Multinational response.—These provisions deal with the action required by other art-importing nations in connection with non-emergency import restrictions imposed under the act. The

act requires that any import restriction under Section 303 of the act be accomplished by corresponding import restrictions by other nations having a significant trade in the cultural properties barred by the U.S. import restriction. The rationale for this requirement is that one cannot effectively deter a serious situation of pillage of cultural properties if the U.S. unilaterally closes its borders to the import of those properties, and they find their way, in an undiminished stream of commerce, to markets in London, Paris, Munich, Tokyo, or other air-importing centers.

Congress imposed a specific requirement of an actual multinational response. There is a concern that the committee is simply disregarding these requirements in its recent actions imposing far-reaching restrictions on cultural properties. Therefore, this subsection amends section 303(g)(2) of the act to require the administering agency to set forth in detail the reasons for its determination under this provision.

Consultation by committee members.—These provisions relate to the appropriate activities of committee members. In order to provide that maximum information and insight be brought to bear upon the committee's fact-finding and deliberations, all members of the Committee will be free to consult with others in connection with non-confidential information in an effort to secure expert advice and information on the justification for a particular request, and to share non-confidential information received from a requesting country in support of its request. Any such consultation must be reported in the committee's records. In the past, committee members have been advised that they would face severe sanctions if they were to consult with experts on the extent of pillage or other pertinent facts in connection with a foreign nation's request.

Cultural Property Advisory Committee membership.—Our bill clarifies that members of the CPAC serve in a representative capacity and not as officers or employees of the government or as special government employees (''SGEs''). This additional language is necessary because officials at the administering agency and elsewhere in the executive branch appear to have misconstrued congressional intent in this regard.

Because CPAC members are expected to bring their particular institutional perspectives to CPAC deliberations, the CCPIA seeks to ensure a ''fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological material,'' by designating members to represent various perspectives. To accomplish this purpose, Congress reserved specific slots on the CPAC for representatives of the affected interest groups.

Despite this language, the administering agency has asserted that CPAC members serve as SGE rather than in a representative capacity. As a result, certain experts have been prevented from serving on the CPAC. The proposed amendment would restate and clarify that all members of the CPAC serve in a representative capacity.

Federal Advisory Committee Act.—Finally, the bill makes clear that the transparency provisions of the Federal Advisory Committee Act (e.g., open meetings, public notice, public participation, and public availability of documents) apply to the fact-finding phase of the committee's actions. Those provisions shall not apply to the deliberative phase of the committee's action if there is an appropriate determination that open procedures would compromise the Government's negotiating objectives or bargaining position.

This provision would open to the public the fact-gathering phase of the CPAC's work, while retaining discretion, consistent with section 206(h) of the CCPIA, to close the deliberative phase where the government's negotiating objectives or bargaining positions may be compromised.

Mr. President, I urge the speedy passage of this legislation and ask unanimous consent that the full text of the bill appear in the RECORD along with a brief section-by-section description of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1696

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 ''Cultural Property Procedural Reform Act''.

SEC. 2. PROCEDURAL REQUIREMENTS.

(a) IN GENERAL.—Section 303(f) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2602(f)) is amended to read as follows:

''(f) PROCEDURES.—

''(1) IN GENERAL.—In the case of any request described in subsection (a) made by a State Party or in the case of a proposal by the President to extend any agreement under subsection (e), the President shall—

''(A) publish notification of the request or proposal in the Federal Register;

''(B) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 304) as is appropriate to enable the Committee to carry out its duties under section 306;

''(C) provide interested parties an opportunity to comment on the findings and recommendations of the Committee; and

''(D) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

''(i) required under section 306(f) (1) or (2); and

''(ii) submitted to the President before the close of the 150-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under subparagraph (B).

''(2) CONTENT OF NOTICE.—Each notice required by paragraph (1)(A) shall include a statement of the relief sought by the State Party, a detailed description of the archaeological or ethnological material that the State Party seeks to protect, and a comprehensive description of the evidence submitted in support of the request.''.

(b) PROCEEDINGS BEFORE COMMITTEE.—Section 306(f)(1) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(f)(1)) is amended to read as follows:

''(1) The Committee shall, with respect to each request by a State Party referred to in section 303(a), undertake a fact-finding investigation and a deliberative review with respect to matters referred to in section 303(a)(1) as the matters relate to the State Party or the request. The Committee shall provide notice and opportunity for comment to all interested parties in the fact-finding phase of the Committee's actions. The Committee shall prepare and publish in the Federal Register a report setting forth—

''(A) the results of the investigation and review and its findings with respect to each of the criteria described in section 303(a)(1);

''(B) the Committee's findings as to the nations individually having a significant import trade in the relevant material; and

''(C) the Committee's recommendation, together with the reasons therefore, as to whether an agreement should be entered into under section 303(a) with respect to the State Party.''.

(c) IMPORT RESTRICTIONS.—Section 303(a)(1) of such Act (19 U.S.C. 2602(a)(1)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) that particular objects of the cultural patrimony of the State Party are in jeopardy from pillaging of archaeological or ethnological materials of the State Party;''; and

(2) by adding at the end the following: ''Historical evidence of pillaging shall not be sufficient to make a determination under subparagraph (A).''.

(d) CONTINUING REVIEW.—Section 306(g) of such Act (19 U.S.C. 2605(g)) is amended—

(1) in paragraph (1), by striking ''a continuing'' and inserting ''an annual'';

(2) by amending paragraph (2) to read as follows:

''(2) ACTION BY COMMITTEE.—

''(A) IN GENERAL.—If the Committee finds, as a result of such review, that—

''(i) cause exists under section 303(d) for suspending the import restrictions imposed under an agreement,

''(ii) any agreement or emergency action is not achieving the purposes for which the agreement or action was entered into or implemented, or

''(iii) changes are required to this title in order to implement fully the obligations of the United States under the Convention,

the Committee shall submit to Congress and the President and publish in the Federal Register a report setting forth the Committee's recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

''(B) AGREEMENTS REVIEWED WHERE NO ACTION PROPOSED.—In any case in which the Committee undertakes a review but concludes that the agreement meets the applicable statutory criteria of effectiveness, the Committee shall submit to Congress and the President and publish in the Federal Register a report setting forth the Committee's findings and conclusions as to the effectiveness of the agreement.

''(C) AGREEMENTS NOT REVIEWED.—The report required by subparagraph (A) shall contain a list of any agreement not reviewed during the year preceding the submission of the report and the reasons why such agreement was not reviewed.''; and

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

''(3) REQUIREMENTS FOR REVIEW.—In each annual review conducted under this subsection, the Committee shall—

''(A) undertake a fact-finding investigation and a deliberative review with respect to the effectiveness of the agreement under review;

''(B) provide notice and opportunity for comment to all interested parties in the fact-finding phase of Committee's action; and

''(C) publish notice of the review in the Federal Register that includes a detailed description of the information submitted to the Committee concerning the effectiveness of the agreement.''.

(e) MULTINATIONAL RESPONSE.—Section 303(g)(2) of such Act (19 U.S.C. 2602(g)(2)) is amended—

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

(2) by striking the period at the end of subparagraph (C) and inserting '', and''; and

(3) by adding at the end the following new subparagraph:

''(D) if the President determines that the application of import restrictions by other nations, as required by subsection (c)(1), is not essential to deter a serious situation of pillage, the reasons for such determination.''.

(f) CONSULTATION BY COMMITTEE MEMBERS.—Section 306(e) of such Act (19 U.S.C. 2605(e)) is amended by adding at the end the following new paragraph:

''(3) Members of the Committee may consult with any person to obtain expert advice and may, in such consultations, share information obtained from a country in support of the request filed under this title to the extent that the information is otherwise publicly available. Any consultations conducted pursuant to this paragraph shall be reported in the record of the Committee's actions.''.

SEC. 3. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) IN GENERAL.—Section 306(b)(1) (B) and (C) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(b)(1) (B) and (C)) are amended to read as follows:

''(B) Three members who shall represent the fields of archaeology, anthropology, ethnology, or related areas.

''(C) Three members who shall represent the international sale of archaeological, ethnological, and other cultural property.''.

(b) CONFLICT OF INTEREST PROVISIONS.—Section 306(b) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(b)) is amended by adding at the end the following new paragraph:

''(4) Members of the Committee who are not otherwise officers or employees of the Federal Government shall serve in a representative capacity and shall not be considered officers, employees, or special Government employees for any purpose.''.

(c) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—Section 306(h) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(h)) is amended to read as follows:

''(h) FEDERAL ADVISORY COMMITTEE ACT.—In order to provide for open meetings and public participation, the provisions of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App.) shall apply to the fact-finding phase of the Committee's actions including the requirements of subsections (a) and (b) of section 10 and section 11 (relating to open meetings, public notice, public participation, and public availability of documents). The requirements of subsections (a) and (b) of section 10 and section 11 shall not apply to the deliberative phase of the Committee's actions if it is determined by the President or the President's designee that the disclosure of matters involved in the Committee's deliberations would compromise the Government's negotiating objectives or bargaining positions on the negotiation of any agreement authorized by this title.''.

SEC. 4. TECHNICAL AMENDMENTS.

(1) Sections 306(e) (1) and (2), 306(i)(1)(A) and 306(i)(2) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605(e) (1) and (2), 2605(i)(1)(A), and 2605(i)(2)) are each amended by striking ''Director of the United States Information Agency'' each place it appears and inserting ''Secretary of State''.

(2) Section 305 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2604) is amended—

(A) in the first sentence, by inserting '', after consultation with the Secretary of State,'' after ''Secretary''; and

(B) in the second sentence, by striking ''archeological'' and inserting ''archaeological''.

CULTURAL PROPERTY PROCEDURAL REFORM ACT—SECTION-BY-SECTION DESCRIPTION

The purpose of this legislation is to improve the procedures for restricting imports of archaeological and ethnological material under the Convention on Cultural Property Implementation Act (''the CCPIA'' or ''Act''). It also clarifies that members of the Cultural Property Advisory Committee (''CPAC'' or ''Committee'') are appointed to act in a representative capacity and are not special government employees.

SECTION 1. SHORT TITLE

The title of the bill is the ''Cultural Property Procedural Reform Act.''

SEC. 2. PROCEDURAL REQUIREMENTS

(a) In general

First, Section 303(f)(2) of the CCPIA is amended to provide that a foreign nation's request for relief shall include a detailed description of the archaeological or ethnological material that a party to the 1970 Cultural Property Convention seeks to protect and a comprehensive description of the evidence submitted in support of the request. This information is to be included in the Federal Register notice required to initiate proceedings under the CCPIA.

Second, Section 303(f)(1)(C) of the CCPIA is amended to require that interested parties have an opportunity to provide comments to the administering agency (formerly USIA, now an agency under the Department of State) on the findings and recommendations of the CPAC.

(b) Proceedings before committee

Section 306(f)(1) of the CCPIA is amended to draw a clear distinction between the fact-finding phase of the Cultural Property Advisory Committee's investigation and its deliberative review of the evidence. The amendment requires the Committee to provide interested parties both notice and an opportunity to comment during the fact-finding phase of the CPAC review.

Section 2(b) of the bill amends Section 306(f)(1) of the CCPIA to direct the Committee to publish in the Federal Register its report, which is to include, inter alia, its findings with respect to each of the criteria described in Section 301(a)(1) of the Act, which sets forth the requirements that must be met before import restrictions may be imposed.

(c) Import restrictions

Section 303(a)(1)(A) of the CCPIA, dealing with the authority to enter into import restrictions, is amended to make clear that there must be evidence that particular objects of the cultural patrimony of the country requesting an embargo be in jeopardy of pillage. The legislation clarifies that historical evidence of pillaging is not sufficient to support the imposition of import restrictions; rather the evidence must reflect contemporary pillage.

(d) Continuing review

Under current law, the Committee is required to review the effectiveness of existing import restrictions on a continuing basis. The legislation makes more specific the obligation of the Committee to conduct such continuing reviews of outstanding agreements. It clarifies that reviews will be conducted on an annual basis, and requires the Committee to publish in the Federal Register the conclusions of such reviews, and to include in an annual report a description of those agreements not reviewed during the preceding year and the reasons why such agreements were not reviewed. This provision requires that notice of the review be published in the Federal Register and that interested parties be afforded an opportunity to comment in the fact-finding phase of the annual reviews.

(e) Multinational response

This subsection deals with the action required by other art-importing nations in connection with non-emergency import restrictions imposed under the Act. The Act requires that any import restriction under Section 303 of the Act be accompanied by corresponding import restrictions by other nations having a significant trade in the materials barred by the U.S. import restriction. This subsection amends Section 303(g)(2) of the Act to require the President to set forth in detail the reasons for a determination that multilateral action is not required.

(f) Consultation by committee members

This subsection provides that Committee members are free to consult with experts and, in connection with such consultations, to share non-confidential information receive from a country in support of its request for an import embargo. Any such consultations must be reported in the records of the Committee.

SEC. 3. CULTURAL PROPERTY ADVISORY COMMITTEE

(a) In general. (see (b), below)
(b) Conflict of interest provisions

These subsections clarify that members of the CPAC serve in a representative capacity and not as officers or employees of the government or as special government employees.

(c) Application of Federal Advisory Committee Act

Subsection (c) of Section 3 of the bill makes clear that the transparency provisions of the Federal Advisory Committee Act (e.g., open meetings, public notice, public participation, and public availability of documents) apply to the fact-finding phase of the Committee's actions. Those provisions shall not apply to the deliberative phase of the Committee's action if the President or his designee determines that open procedures would compromise the Government's negotiating objectives or bargaining position.

SEC. 4. TECHNICAL AMENDMENTS

This section makes technical changes to the CCPIA in light of the abolition of the United States Information Agency, and consequent transfer of its functions to the Department of State.

● Mr. SCHUMER. Mr. President, I rise to join with my colleagues Senators MOYNIHAN and ROTH in introducing legislation today that I feel is long overdue.

More than 20 years ago, in an attempt to end the looting and pillaging of important archaeological and cultural sites, and to protect the integrity

of a country's cultural patrimony, Senator MOYNIHAN and others labored to develop an international protocol that struck a balance between a country's desire to protect its heritage and the art world's desire to have a healthy trade in and exhibition of cultural artifacts. After years of deliberation, these efforts resulted in the UNESCO Convention on Cultural Property—a delicately balanced set of rules and guidelines to protect countries from looting, but to allow a legitimate trade in historical objects and the showing of those objects in museums around the world.

Congress later established the Cultural Property Advisory Committee (CPAC) to assist the President in making determinations under this convention about whether to restrict or allow the trade of archaeologically significant materials when another country claims harm. Once again, Senator MOYNIHAN was the impetus and intellectual might behind this legislation.

For years, this was a balanced process that weighed the claims of countries against the competing interests of museums, art dealers, and auction houses. The CPAC itself was comprised of individuals representing the interests of the museums, auction houses, dealers, archaeologists, and anthropologists. This committee, with the help of staff, made determinations based on fact (was there sufficient evidence of looting or pillaging?) and effectiveness (if the U.S. unilaterally banned the import of certain items, would it have a reasonable chance of reducing or ending the looting?). The original international protocol as well as the enacting legislation passed by the Congress, specifically discouraged unilateral or bilateral actions. The protocols and the legislation were designed to lead to a cohesive international response, not a country-by-country response to looting.

Somewhere along the line, that delicate balance shifted. CPAC hearings that were once open became closed. Actions that were once multilateral became unilateral. A process that was once inclusive became exclusive. Decisions that in the past were based on a fair hearing on the merits became instead a foregone conclusion against the museums and the dealers. I would go as far as to say that for those representing museums and art dealers, the process became overtly hostile and secretive.

More than a year ago, I convened a meeting with then-USIA director Joe Duffy, members of the art community, and the staff of Senator MOYNIHAN. The meeting was called because of a sweeping action taken by the CPAC regarding Canadian Native American artifacts. Without dwelling on the details of the complaint by the Canadian government or the decision to bar any imports by the U.S. of thousands of artifacts—the meeting was extraordinary. Director Duffy, who as USIA head oversaw the CPAC, admitted that they were way out of line. He admitted that the process had become closed and hostile to dealers and the museums. And he suggested to me and by proxy to Senator MOYNIHAN that we supply him with a name of a person to fill a vacancy on the CPAC to help restore the balance that once was the norm. We gave him the name of Andre Emmerich, a semi-retired dealer in artifacts and probably the most respected voice in the field of cultural property. Director Duffy said to me that Andre Emmerich was the perfect choice.

More than one year later and unfortunately after Director Duffy retired, Andre Emmerich's nomination was rejected because, the CPAC claimed, as a dealer he had a conflict of interest. Let's face facts. The entire CPAC is designed to be a conflict of interest. The balance of the committee membership is supposed to reflect that conflict of interest. That conflict of interest is essential to the inner workings of the committee as the expertise supplied by those in various fields is also intended to edify the rest of the committee to help them make the right decision.

That brings us to today. We are introducing legislation that is intended to clean up the CPAC—to make the process open, fair, transparent, and accountable. Among other provisions, the legislation forces CPAC to open meetings that have been absurdly secretive. The need for cloak and dagger, spy vs. spy, CIA level secrecy over the importation of Peruvian pottery escapes me.

I am proud to be joining both Senator MOYNIHAN and Senator ROTH—two of the most respected leaders in the Senate—in introducing this legislation. I hope we can move this bill quickly, because this is a situation that needs a remedy.●

By Mr. VOINOVICH:

S. 1699. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes; to the Committee on Environment and Public Works.

CLEAN WATER INFRASTRUCTURE FINANCING ACT OF 1999

Mr. VOINOVICH. Mr. President, I rise today to introduce the Clean Water Infrastructure Financing Act of 1999, legislation which will reauthorize the highly successful, but undercapitalized, Clean Water State Revolving Loan Fund (SRF) Program administered by the U.S. Environmental Protection Agency (EPA).

As many of my colleagues know, the Clean Water SRF Program is an effective and immensely popular source of funding for wastewater collection and treatment projects. Congress created the SRF in 1987, to replace the direct grants program that was enacted as part of the landmark 1972 Federal Water Pollution Control Act, or as it is known, the Clean Water Act. State and local governments have used the federal Clean Water SRF to help meet critical environmental infrastructure financing needs. The program operates much like a community bank, where each state determines which projects get built.

The performance of the SRF Program has been spectacular. Total federal capitalization grants have been nearly doubled by non-federal funding sources, including state contributions, leveraged bonds, and principal and interest payments. Communities of all sizes are participating in the program, and approximately 7,000 projects nationwide have been approved to date.

Ohio has needs for public water system improvements which greatly exceed the current SRF appropriations levels. According to the latest state figures, more than $7 billion of improvements have been identified as necessary. In recent years, Ohio cities and villages are spending more on maintaining and operating their systems than in the past, which is an indication their systems are aging and will soon need to be replaced. For example, the City of Columbus recently requested SRF assistance amounting to $725 million over the next five years.

While the SRF program's track record is excellent, the condition of our Nation's environmental infrastructure remains alarming. A 20-year needs survey published by the EPA in 1997 documented $139 billion worth of wastewater capital needs nationwide. This past April, the national assessment was revised upward to nearly $200 billion, in order to more accurately account for expected sanitary sewer needs. Private studies demonstrate that total needs are closer to $300 billion, when anticipated replacement costs are considered.

Authorization for the Clean Water SRF expired at the end of fiscal year 1994, and the failure of Congress to reauthorize the program sends an implicit message that wastewater collection and treatment is not a national priority. The longer we have an absence of authorization of this program, the longer it creates uncertainty about the program's future in the eyes of borrowers, which may delay or in some cases prevent project financing.

The bill that I am introducing today will authorize a total of $15 billion over the next five years for the Clean Water SRF. Not only would this authorization bridge the enormous infrastructure funding gap, the investment would also pay for itself in perpetuity by protecting our environment, enhancing public health, creating jobs and increasing numerous tax bases across the country. Additionally, the bill will provide technical and planning assistance for small systems, expand the types of projects eligible for loan assistance, and offer disadvantaged communities extended loan repayment periods and principal subsidies.

At the local level, there are numerous areas like the town of Glenn Robbins in Jefferson County, Ohio, which cannot afford a zero percent loan to build the cost-effective facilities they

need. Estimates indicate that among towns of less than 3,500 population in Ohio, there are $1.5 billion in needs.

The health and well-being of the American public depends on the condition of our Nation's wastewater collection and treatment systems. Unfortunately, the facilities that comprise these systems are often taken for granted because they are invisible absent a crisis. Let me assure my colleagues that the costs of poor environmental infrastructure are simply intolerable. Recent flood disasters have been a stark reminder of the human costs that stem from the contamination of our Nation's water supply.

The Clean Water SRF Program has helped thousands of communities meet their wastewater treatment needs. My legislation will help ensure that the Clean Water SRF Program remains a viable component in the overall development of our Nation's infrastructure for years to come. I urge my colleagues to join me in cosponsoring this legislation, and I urge it's speedy consideration by the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1699

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 ''Clean Water Infrastructure Financing Act of 1999''.

SEC. 2. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) of the Federal Water Pollution Control Act (33 U.S.C. 1381(a)) is amended by striking ''(1) for construction'' and all that follows through the period at the end and inserting ''to accomplish the purposes of this Act.''.

SEC. 3. CAPITALIZATION GRANTS AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking ''before fiscal year 1995''; and

(2) by striking ''201(b)'' and all that follows through ''218,'' and inserting ''211,''.

(b) GUIDANCE FOR SMALL SYSTEMS.—Section 602 of the Federal Water Pollution Control Act (33 U.S.C. 1382) is amended by adding at the end the following:

''(c) GUIDANCE FOR SMALL SYSTEMS.—

''(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

''(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

''(3) DEFINITION OF SMALL SYSTEM.—In this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and that serves a population of 20,000 or fewer inhabitants.''.

SEC. 4. WATER POLLUTION CONTROL REVOLVING FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (c) and inserting the following:

''(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

''(1) IN GENERAL.—The water pollution control revolving fund of a State shall be used only for providing financial assistance for activities that have, as a principal benefit, the improvement or protection of the water quality of navigable waters to a municipality, intermunicipal, interstate, or State agency, or other person, including activities such as—

''(A) construction of a publicly owned treatment works;

''(B) implementation of lake protection programs and projects under section 314;

''(C) implementation of a nonpoint source management program under section 319;

''(D) implementation of a estuary conservation and management plan under section 320;

''(E) restoration or protection of publicly or privately owned riparian areas, including acquisition of property rights;

''(F) implementation of measures to improve the efficiency of public water use;

''(G) development and implementation of plans by a public recipient to prevent water pollution; and

''(H) acquisition of land necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

''(2) FUND AMOUNTS.—

''(A) REPAYMENTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments.

''(B) AVAILABILITY.—The balance in the fund shall be available in perpetuity for providing financial assistance described in paragraph (1).

''(C) FEES.—Fees charged by a State to recipients of the assistance may be deposited in the fund and may be used only to pay the cost of administering this title.''.

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A), by inserting after ''20 years'' the following: ''or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan''; and

(2) in subparagraph (B), by striking ''not later than 20 years after project completion'' and inserting ''on the expiration of the term of the loan''.

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended by striking paragraph (5) and inserting the following:

''(5) to provide loan guarantees for—

''(A) similar revolving funds established by municipalities or intermunicipal agencies; and

''(B) developing and implementing innovative technologies;''.

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: ''or the greater of $400,000 per year or an amount equal to ½ percent per year of the current valuation of the fund, plus the amount of any fees collected by the State under subsection (c)(2)(C)''.

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)) is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations, except that the amounts used under this paragraph for a fiscal year shall not exceed 2 percent of all grants provided to the fund for the fiscal year under this title.''.

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) of the Federal Water Pollution Control Act (33 U.S.C. 1383(f)) is amended by striking ''is consistent'' and inserting ''is not inconsistent''.

(g) CONSTRUCTION ASSISTANCE.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by striking subsection (g) and inserting the following:

''(g) CONSTRUCTION ASSISTANCE.—

''(1) PRIORITY LIST REQUIREMENT.—The State may provide financial assistance from the water pollution control revolving fund of the State for a project for construction of a publicly owned treatment works only if the project is on the priority list of the State under section 216, without regard to the rank of the project on the list.

''(2) ELIGIBILITY OF CERTAIN TREATMENT WORKS.—A treatment works shall be treated as a publicly owned treatment works for purposes of subsection (c) if the treatment works, without regard to ownership, would be considered a publicly owned treatment works and is principally treating municipal waste water or domestic sewage.''.

(h) INTEREST RATES.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended by adding at the end the following:

''(i) INTEREST RATES.—

''(1) IN GENERAL.—In any case in which a State makes a loan under subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan.

''(2) LIMITATION.—The aggregate amount of all negative interest rate loans the State makes for a fiscal year under paragraph (1) shall not exceed 20 percent of the aggregate amount of all loans made by the State from the water pollution control revolving fund for the fiscal year.

''(j) DEFINITION OF DISADVANTAGED COMMUNITY.—In this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines established by the Administrator in cooperation with the States.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 607 of the Federal Water Pollution Control Act (33 U.S.C. 1387) is amended by striking ''the following sums:'' and all that follows through the period at the end of paragraph (5) and inserting ''$3,000,000,000 for each of fiscal years 2001 through 2005.''.

By Mr. DURBIN:

S. 1700. A bill to amend the Federal Rules of Criminal Procedure to allow a defendant to make a motion for forensic testing not available at trial regarding actual innocence; to the Committee on the Judiciary.

THE RIGHT TO USE TECHNOLOGY IN THE HUNT FOR TRUTH

Mr. DURBIN. Mr. President, the hallmark of our criminal justice system has always been the search for the truth. With this goal in mind, I am introducing legislation to ensure the quality of justice in our criminal courts through the use of DNA testing.

In the last decade, the use of DNA evidence as a tool to assign guilt and acquit the innocent has produced dramatic results. The Innocence Project at the Cardozo School of Law has identified 62 cases in the United States since 1988 in which the use of DNA technology resulted in overturned convictions. In my home State of Illinois, 12 innocent men in the past 12 years have been released from Illinois' Death Row after DNA testing or other evidence proved their innocence.

The bill I am introducing today, The Right to Use Technology in the Hunt for Truth (TRUTH) Act will amend the Federal Rules of Criminal Procedure. Specifically, the bill will allow Federal defendants to file a motion to mandate DNA testing to support claims of actual innocence. Under current law, rule 33 of the Federal Rules of Criminal Procedure imposes a 2-year time limitation for new trial motions based on newly discovered evidence. This time limitation can act as a carrier even in cases where the evidence of actual innocence is available. My bill will allow defendants to bring a motion for forensic DNA testing without regard to the 2-year time limitation. It will not waive the 2-year time limit for all new trial limitations. Only motions for forensic DNA testing under limited circumstances will not subject to the 2-year time limitation.

This Federal rule change allows a defendants to utilize technology that was unavailable at the time of their conviction. The bill requires the defendant to show that identity was an issue in the trial which resulted in his conviction and that the evidence gathered by law enforcement was subject to a chain of custody sufficient to protect its integrity.

DNA technology has undergone rapid change that has increased its ability to obtain meaningful results from old evidence through the use of smaller and smaller samples. In the World Trade Center bombing case, DNA was recovered from saliva on the back of a postage stamp.

In the past, crime laboratories relied primarily on restriction fragment length polymorphism (RFLP) testing, a technique that requires a rather large quantity of DNA (100,000 or more cells). Most laboratories are now shifting to using a test based on the polymerase chain reaction (PCR) method that can generate reliable data from extremely small amounts of DNA in crime scene samples (50 to 100 cells).

Two States in the country, New York and Illinois, have laws mandating post-conviction DNA testing. The Illinois law has led to as many as six overturned sentences, including some murder charges.

When the measure was debated in the Illinois Legislature, some lawmakers raised concerns that allowing DNA-based appeals would lead to an avalanche of prisoners' demands for such tests.

But the response from experts is that such motions have not been excessive because prisoners who were justifiably convicted of crimes would have that DNA tests would only underscore their guilt.

Recently, a high-level study of a commission appointed by Attorney General Janet Reno has encouraged prosecutors to be more amenable to reopening cases where convictions might be overturned because of the use of DNA testing. The Innocence Project in New York estimates that 60 percent of the samples it sends out for testing come back in their clients' favor.

Justice Robert Jackson wrote some 40 years ago, ''[i]t must prejudice the occasional meritorious application to be buried in a flood of worthless ones. He who must search a haystack for a needle is likely to end up with the attitude that the needle is not worth the search.'' This bill will help make the hay stack smaller by separating out motions for new trial based on scientific evidence of actual innocence.

I hope my colleagues will join me in this effort to protect the integrity of the criminal justice system by utilizing all that technology has to offer. I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1700

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 Right to Use Technology in the Hunt for Truth Act'' or ''TRUTH Act''.

SEC. 2. MOTION FOR FORENSIC TESTING NOT AVAILABLE AT TRIAL REGARDING ACTUAL INNOCENCE.

(a) IN GENERAL.—The Federal Rules of Criminal Procedure are amended by inserting after rule 33 the following:

''Rule 33.1. Motion for forensic testing not available at trial regarding actual innocence

''(a) MOTION BY DEFENDANT.—A court on a motion of a defendant may order the performance of forensic DNA testing on evidence that was secured in relation to the trial of that defendant which resulted in the defendant's conviction, but which was not subject to the testing which is now requested because the technology for the testing was not available at the time of trial. Reasonable notice of the motion shall be served upon the Government.

''(b) PRIMA FACIE CASE.—The defendant shall present a prima facie case that—

''(1) identity was an issue in the trial which resulted in the conviction of the defendant; and

''(2) the evidence to be tested has been subject to a chain of custody sufficient to establish that the evidence has not been substituted, tampered with, replaced, or altered in any material aspect.

''(c) DETERMINATION OF THE COURT.—The court shall allow the testing under reasonable conditions designed to protect the interests of the Government in the evidence and the testing process upon a determination that—

''(1) the result of the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence; and

''(2) the testing requested employs a scientific method generally accepted within the relevant scientific community.''.

(b) TABLE OF CONTENTS.—The table of contents for the Federal Rules of Criminal Procedure are amended by adding after the item for rule 33 the following:

''33.1. Motion for forensic testing not available at trial regarding actual innocence.''.

By Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. THURMOND, Mr. BIDEN, Mrs. FEINSTEIN, Mr. HELMS, and Mr. CLELAND):

S. 1701. A bill to reform civil asset forfeiture, and for other purposes; to the Committee on the Judiciary.

CIVIL ASSET FORFEITURE REFORM

Mr. SESSIONS. Mr. President, today I am proud to introduce the Sessions/Schumer Civil Asset Forfeiture Reform Act of 1999. This bill is the product of many months of work by a bipartisan group of Judiciary Committee Senators. It will make many needed reforms to the law of civil asset forfeiture. At the same time, our measures preserve forfeiture as a crucial tool for law enforcement.

The Sessions/Schumer bill was drafted in close consultation and with the support of the Justice and Treasury Departments. It has the support of the FBI, the DEA, the INS, and the U.S. Marshall's Service.

There are five major reforms in the Sessions/Schumer bill. First, we have raised the burden of proof on the government in forfeiture claims from probable cause to preponderance of the evidence, the same as other civil cases.

Second, Sessions/Schumer requires that real property can only be seized through the court. It will be illegal for federal agents to physically seize real property until the property has been forfeited in court.

For those who cannot afford the cost bond, our bill also adds a property bond alternative for contesting forfeiture. This provides potential claimants with more flexibility in choosing how to proceed with a claim against seized assets. It will no longer be necessary to provide cash up front to file a claim. Instead, a claimant can simply pledge an asset to cover the anticipated costs or, if the claimant cannot afford this, proceed without posting any bond.

Sessions/Schumer also creates a uniform innocent owner defense; an innocent owner's interest in property cannot be forfeited by the government. An innocent owner includes one who had no knowledge that the property may have been used to commit a crime. And

in cases where the property was acquired after the crime, the uniform innocent owner defense includes bona fide purchases who have no reason to know that the asset they have purchased may be tainted.

The fifth major reform provides payment of attorney's fees. If a claimant receives a judgment in his favor, the Government will pay the claimant's reasonable attorney's fees.

I am pleased to note that this bill has the support of a broad coalition of law enforcement groups. It has been endorsed by the Fraternal Order of Police, the Federal Law Enforcement Officer's Association, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the National Association of Police Organizations, the National District Attorney's Association, the National Sheriff's Association, and the National Troopers' Coalition.

As one who believes in justice and who spent many years as a federal prosecutor, I know how important asset forfeiture is in the war on drugs. We cannot allow exaggerated rhetoric and outdated examples to destroy asset forfeiture as a law enforcement tool. I believe that this bill will strike an appropriate balance between those on the front lines of the war on drugs and advocates for reform.

Mr. THURMOND. Mr. President, I rise today as an original cosponsor of the Civil Asset Forfeiture Reform Act of 1999. This important legislation makes needed reforms to Federal civil asset forfeiture while preserving Federal civil asset forfeiture and its important role in fighting crime.

The government has had the authority to seize property connected to illegal activity since the founding days of the Republic. Forfeiture may involve seizing contraband, like drugs, or the tools of the trade that facilitate the crime.

Further, forfeiture is critical to taking the profits out of the illegal activity. Profit is the motivation for many crimes like drug trafficking and racketeering, and it is from these enormous profits that the criminal activity thrives and sustains. The use of traditional criminal sanctions of fines and imprisonment are inadequate to fight the enormously profitable trade in illegal drugs, organized crime, and other such activity, because even if one offender is imprisoned the criminal activity continues.

Asset forfeiture deters crime. It has been a major weapon in the war on drugs since the mid-1980s, when we expanded civil forfeiture to give it a more meaningful role.

The Judiciary Subcommittee on Criminal Justice Oversight which I chair, held a hearing recently on this important issue. We heard from the Department of Justice, the Department of Treasury, the law enforcement community and others involved in this issue. The Departments and law enforcement expressed support for reform but concerns about going too far.

As I stated at that time, many believe the government should have the burden of proving that it is more likely than not that the property was involved in the criminal activity, rather than the owner having to prove that the property was not involved. There is wide support for developing a more uniform innocent owner defense. Further, some are concerned that under current law the government is not liable when it negligently damages property in its possession, even when the property is later returned to its innocent owner.

I believe we have addressed these concerns in this bill. We have raised the burden on the government to the preponderance of the evidence standard, which is the general burden of proof used in civil cases.

We have developed a uniform innocent owner defense to protect an owner's interest in property when he did not have knowledge of the criminal activity or took reasonable steps to stop or prevent the illegal use of the property. The bill also protects the bonafide purchaser who purchased the property after the fact without knowledge of the criminal activity.

As an additional reform provision, this legislation holds the government liable for the negligent damage to property as the result of unreasonable law enforcement actions while the property is in the government's possession.

This bill requires the government to make seizures pursuant to a warrant, based on probable cause, and requires a timely notice to interested parties of the seizure. When a claim has been filed for the return of property, the government must conduct a judicial hearing within 90 days, and if the court enters a judgment for the claimant, the government must pay reasonable attorney fees to the claimant. This is a reasonable way to award attorney fees to the claimant after the court has determined that the claim was justified. This provision also protects the government from frivolous claims because it maintains the possibility of awarding cost to the government if the claim is determined to be frivolous.

In this legislation, we encourage the government to use criminal forfeiture as an alternative to civil forfeiture. We also allow for the use of forfeited funds to pay restitution to crime victims by expanding the ability of the Attorney General to use property forfeited in a Federal civil case to pay restitution to victims of the underlying crime.

This bill represents a compromise between the many interests involved in this issue. I would like to commend my colleagues Senators SESSIONS, BIDEN, SCHUMER, and FEINSTEIN for their work on this complex issue. After the hearing in my Subcommittee, we worked hard to create comprehensive, bipartisan legislation, and I believe we have succeeded.

This bill has been endorsed by law enforcement organizations including the Fraternal Order of Police, the National Association of Police Organizations, the National District Attorneys Association, the National Troopers Coalition, the National Sheriffs Association, and the International Association of Chiefs of Police.

This is a balanced reform of Federal civil asset forfeiture laws. It does not tie the hands of law enforcement and does not give criminals the upper hand. It makes needed reforms of civil asset forfeiture while preserving civil asset forfeiture as an essential law enforcement tool.

I hope our colleagues will join with us in supporting this important bipartisan legislation.

By Mr. MURKOWSKI:

S. 1702. A bill to amend the Alaska Native Claims Settlement Act to allow shareholder common stock to be transferred to adopted Alaska Native children and their descendants, and for other purposes; to the Committee on Energy and Natural Resources.

ALASKA NATIVE CLAIMS TECHNICAL AMENDMENTS ACT OF 1999

• Mr. MURKOWSKI. Mr. President, today I rise to introduce legislation that would make technical changes to the Alaska Native Claims Settlement Act (ANCSA).

As my colleagues know, ANCSA was enacted in 1971 stimulated by the need to address Native land claims as well as the desire to clear the way for the construction of the Trans-Alaska Pipeline and thereby provide our country with access to the petroleum resources of Alaska's North Slope. This landmark piece of legislation is a breathing, living, document that often needs to be attended for Alaska Natives to receive its full benefits. This body has amended the Act many times including this Congress.

This bill has nine provisions. One provision would allow common stock to be willed to adopted-out descendants. Another provision would clarify the liability for contaminated lands in Alaska. The clarification of contaminated land would declare that no person acquiring interest in land under this Act shall be liable for the costs of removal or remedial action, any damages, or any third party liability arising out or as a result of any contamination on that land at the time the land was acquired.

In 1917, the Norton Bay Reservation was established on 350,000 acres of land located on the north side of Norton Bay southeast of Nome, Alaska, for the benefit of Alaska Natives who now reside in the village of Elim, Alaska. The purpose of the establishment of the reservation included providing a land, economic, subsistence, and resources base for the people of that area.

In 1929, through an Executive Order, 50,000 acres of land were deleted from the reservation with little consultation and certainly without the informed consent of the people who were to be most affected by such a deletion. After passage of ANCSA, only the remaining

300,000 acres of the original reservation were conveyed to the Elim Native Corporation. This loss of land from the original reservation has become over the years a festering wound to the people of Elim. It now needs to be healed through the restoration or replacement of the deleted fifty thousand acres of land to the Native Village Corporation authorized by ANCSA to hold such land.

Section 5 of the bill amends the Act further to allow equal access to Alaska Native veterans who served in the military or other armed services during the Vietnam War. I want to spend a moment speaking about this provision in particular, Mr. President, because I feel a great injustice has occurred and the current Administration has turned its back to these dedicated American veterans.

Under the Native Allotment Act, Alaska Natives were allowed to apply for lands which they traditionally used as fish camps, berry picking camps or hunting camps. However, many of our Alaska Natives answered the call to duty and served in the services during the Vietnam War and were unable to apply for their native allotment. This provision allows them to apply for their native allotments and would expand the dates to include the full years of the Vietnam War. The original dates recommended by the Administration only allowed the dates January 1, 1969 to December 31, 1971. Our Alaska Native veterans should not be penalized for serving during the entire dates of the Vietnam conflict. This provision corrects that inequity by expanding the dates to reflect all the years of the Vietnam War—August 5, 1964 to May 7, 1975.

Mr. President, Alaska Natives have faithfully answered the call of duty when asked to serve in the armed services. In fact, American Indians and Alaska Natives generally have the highest record of answering the call to duty. Where their needs are concerned I believe we should be inclusive, not exclusive. What this Administration has done to deny them their rights is shameful. Unfortunately, their treatment of Alaska Native Veterans is reflective of their treatment of Alaska Natives in general.

As I am sure my colleagues will agree, the history of our Nation reflects many examples of injustices to Native Americans. As hearings will confirm, this issue calls out to be sensibly remedied and can be with relative ease as outlined in this section of the bill.

I plan on holding a hearing on this legislation at the earliest possible opportunity.●

By Mr. BINGAMAN:

S. 1703. A bill to establish America's education goals; to the Committee on Health, Education, Labor, and Pensions.

ESTABLISH AMERICA'S EDUCATION GOALS LEGISLATION

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 1704. A bill to provide for college affordability and high standards; to the Committee on Health, Education, Labor, and Pensions.

ACCESS TO HIGH STANDARDS ACT

● Mr. BINGAMAN. Mr. President, today I am pleased to introduce two education bills for consideration in the context of reauthorization of the Elementary and Secondary Education Act (''ESEA''). Two weeks ago, I introduced two education bills related to raising standards and improving accountability for our public school teachers. Last week, I introduced three bills related to raising standards and accountability in our schools. The two bills that I introduce today focus on raising standards and accountability for student performance. One bill continues our commitment to provide support for the standards-based reform movement taking place in virtually every State by reauthorizing the National Education Goals Panel. The other bill, the Access to High Standards Act, which I introduce on behalf of myself and Senator KAY BAILEY HUTCHISON, will provide our high school students with greater access to rigorous, college level courses through advanced placement programs.

I think most people would agree that in order to compete and continue to prosper in our global economy, it is imperative that our students are provided with a world-class educational program. To that end, we owe it to our students to define high academic standards, monitor their progress and provide them with the resources they need to succeed. The National Education Goals Panel has played a crucial role in achieving these objectives by focusing attention on the need to raise standards and effective methods for achieving higher performance on the local level. As a founding and current member of the National Education Goal Panel, I am pleased to introduce a bill that would reauthorize the Panel so that it can continue its efforts to provide leadership and track progress for local efforts to raise standards for student performance.

The Goals Panel is a bipartisan body of federal and state officials made up of eight governors, four members of Congress, four state legislators and two members appointed by the President. The Panel is charged with reporting national and state progress toward goals set initially by the nation's Governors during a National Education Summit meeting with President Bush and expanded during the 1994 ESEA reauthorization Summit meeting with President Bush and expanded during the 1994 ESEA reauthorization process in the Educate America Act. The Panel also identifies promising practices for improving education and helps to build a nationwide, bipartisan consensus to achieve the goals. The eight National Education Goals call for greater levels of: school readiness; student achievement and citizenship; high school completion; teacher education and professional development; parental participation in the schools; literacy and lifelong learning; and safe, disciplined and alcohol- and drug-free schools.

We need to continue the Panel's work, because we are not yet where we need to be with respect to meeting the goals or with respect to supporting state and local efforts to put in place standards-based educational programs. Data collected by the Goals Panel has helped and can continue to help State and local officials to formulate comprehensive school improvement policies. The Goals Panel also has provided and can continue to provide guidance to federal, state and local policy-makers by providing a national picture for student performance. We have made good progress towards developing more competitive, high quality educational systems in our states and localities, but we must not leave the task incomplete. We must continue to focus attention and resources on incorporating high standards into public education. As Secretary Riley stated before the nation's governors and President Bush met in 1989, ''Significant educational improvements do not just happen. They are planned and pursued.'' I hope that my colleagues will support continuation of the Goals Panel so that we can continue to use the Panel as a tool for setting and achieving high standards for student performance.

Building on the successful expansion of the Advanced Placement Incentive Program achieved in the last Congress, the Access to High Standards Act is intended to help foster the continued growth of advanced placement programs throughout the nation and to help ensure equal access to these programs for low income students. Advanced placement programs already provide rigorous academics and valuable college credits at half the high schools in the United States, serving over 1.5 million students last year. Many States that have advanced placement incentive programs have already shown tremendous success in increasing participation rates, raising achievement scores, and increasing the involvement of low-income and underserved students. Nevertheless students—particularly low-income students—continue to be denied or have limited access to this critical program.

Despite recent growth in state initiatives and participation, AP programs are still often distributed unevenly among regions, states, and even high schools within the same districts. Just a few months ago, a group of students filed a complaint in federal court against the State of California seeking equal access to advance placement programs. Over forty percent of our nation's public schools still do not offer any Advanced Placement courses. The

Access to High Standards Act is intended to take additional steps in fostering the continued growth of advanced placement programs throughout the nation and to help ensure equal access to these programs for low-income students. This bill creates a $25 million demonstration grant program to help states build and expand advanced placement incentive programs giving priority to districts with high concentrations of low-income students and to State programs targeting low-income students. In addition, the bill authorizes a pilot grant program for States seeking to provide advanced placement courses through Internet-based on-line curriculum to students in rural areas or areas where the lack of available advanced placement teachers make it impossible to provide traditional courses. The bill also make AP a part of other federal education programs such as the Technology for Education Act programs that I helped author in 1994. In this way, federal initiatives will be encouraged to incorporate the high standards and measurable results of the AP program.

As many of my colleagues know, college costs have risen many times faster than inflation over the last decade, making attendance more difficult for high school graduates and creating tremendous financial burdens. Advanced placement programs address this issue by giving students an opportunity to earn college credit in high school by preparing for and passing AP exams. In fact, a single AP English test score of 3 or better is worth approximately $500 in tuition at the University of New Mexico, and the credits granted to students nationwide are worth billions each year.

By promoting AP courses, we also address the need to raise academic standards. Many states and districts are struggling to develop and implement rigorous academic standards and concrete measures of achievement—an approach that is advocated by many experts, lawmakers, and the public. By implementing high academic standards and providing standardized measures for achievement through AP programs, we can help prepare students for college. This is clearly a necessary goal. Almost 33 percent of all freshmen fail to pass to pass basic entrance exams and are required to take remedial courses. And, at least in part due to academic difficulties, over 25 percent of freshmen drop out before their second year.

In addition, expanding AP programs improve students' academic performance in college. And because the vast majority of AP teachers teach several non-AP classes as well, AP programs also have a tendency of raising schoolwide standards and achievement among the 400 new schools adopting the program each year. As Secretary Riley has said, expanded AP will ''help fight the tyranny of low expectations, which tragically hold back so many of our students.''

Of course, there is no single remedy or federal program that can hope to address all of the issues that public education must face in order to improve the achievement and preparation of our students. However, I believe that high college costs and low academic standards deserve our closest attention, and I am confident that expansion of advanced placement programs will help states address these issues effectively.

I look forward to working with my colleagues to incorporate the two bills I am introducing today, as well as, the education bills introduced in recent weeks into the ESEA. I believe that they will go a long way towards improving education in the United States by focusing on raising standards and ensuring accountability for teacher, school and student performance.●

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. ASHCROFT, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Iowa (Mr. HARKIN), and the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 332

At the request of Mr. BROWNBACK, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 332, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Kyrgyzstan.

S. 446

At the request of Mrs. BOXER, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 446, a bill to provide for the permanent protection of the resources of the United States in the year 2000 and beyond.

S. 469

At the request of Mr. BREAUX, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 469, a bill to encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes.

S. 631

At the request of Mr. DEWINE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 758

At the request of Mr. ASHCROFT, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 758, a bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes.

S. 759

At the request of Mr. MURKOWSKI, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 759, a bill to regulate the transmission of unsolicited commercial electronic mail on the Internet, and for other purposes.

S. 1003

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1003, a bill to amend the Internal Revenue Code of 1986 to provide increased tax incentives for the purchase of alternative fuel and electric vehicle, and for other purposes.

S. 1085

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1085, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of bonds issued to acquire renewable resources on land subject to conservation easement.

S. 1102

At the request of Mr. GRAMS, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1102, a bill to guarantee the right of individuals to receive full social security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment.

S. 1131

At the request of Mr. EDWARDS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1131, a bill to promote research into, and the development of an ultimate cure for, the disease known as Fragile X.

S. 1133

At the request of Mr. GRAMS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1133, a bill to amend the Poultry Products Inspection Act to cover birds of the order Ratitae that are raised for use as human food.

S. 1155

At the request of Mr. ROBERTS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1155, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 1187

At the request of Mr. DORGAN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the

Lewis and Clark Expedition, and for other purposes.

S. 1272

At the request of Mr. NICKLES, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1277

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1315

At the request of Mr. BINGAMAN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1315, a bill to permit the leasing of oil and gas rights on certain lands held in trust for the Navajo Nation or allotted to a member of the Navajo Nation, in any case in which there is consent from a specified percentage interest in the parcel of land under consideration for lease.

S. 1384

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1445

At the request of Mr. KOHL, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1445, a bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the medicare and medicaid programs.

S. 1452

At the request of Mr. SHELBY, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1452, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 1488

At the request of Mr. GORTON, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 1488, a bill to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

S. 1571

At the request of Mr. JEFFORDS, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1571, a bill to amend title 38, United States Code, to provide for permanent eligibility of former members of the Selected Reserve for veterans housing loans.

S. 1573

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1573, a bill to provide a reliable source of funding for State, local, and Federal efforts to conserve land and water, preserve historic resources, improve environmental resources, protect fish and wildlife, and preserve open and green spaces.

S. 1590

At the request of Mr. CRAPO, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 1590, a bill to amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes.

S. 1608

At the request of Mr. WYDEN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1608, a bill to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in Federal Lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

S. 1689

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1689, a bill to require a report on the current United States policy and strategy regarding counter-narcotics assistance for Colombia, and for other purposes.

S. 1690

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1690, a bill to require the United States to take action to provide bilateral debt relief, and improve the provision of multilateral debt relief, in order to give a fresh start to poor countries.

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. SPECTER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of Senate Concurrent Resolution 34, a concurrent resolution relating to the observance of ''In Memory'' Day.

AMENDMENT NO. 1889

At the request of Mr. NICKLES the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 1889 proposed to S. 1650, an original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

SENATE RESOLUTION 197—REFERRING S. 1698 ENTITLED ''A BILL FOR THE RELIEF OF D.W. JACOBSON, RONALD KARKALA, AND PAUL BJORGEN OF GRAND RAPIDS, MINNESOTA'' TO THE CHIEF JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A REPORT THEREON

Mr. GRAMS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 197

Resolved,

SECTION 1. REFERRAL.

S. 1698 entitled ''A bill for the relief of D. W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota'' now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims.

SEC. 2. PROCEEDING AND REPORT.

The chief judge shall—

(1) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(2) report back to the Senate, at the earliest practicable date, providing—

(A) such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the claim for compensation referred to in such bill as a legal or equitable claim against the United States or a gratuity; and

(B) the amount, if any, legally or equitably due from the United States to D. W. Jacobson, Ronald Karkala, and Paul Bjorgen of Grand Rapids, Minnesota.

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT 2000

LAUTENBERG AMENDMENT NO. 2267

Mr. LAUTENBERG proposed an amendment to amendment No. 1851 proposed by Mr. NICKLES to the bill (S. 1650) making appropriations for the Departments of Labor, Health and Human

Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes; as follows:

At the end of the amendment add the following:

SEC. ___. PROTECTING SOCIAL SECURITY SURPLUSES.

(a) FINDINGS.—The Senate finds the following:

(1) The Congressional Budget Office has projected that Congress is headed toward using at least $19,000,000,000 of the social security surplus in fiscal year 2000.

(2) Amendment number 1851 calls for across-the-board cuts, which could result in a broad-based reduction of 10 percent, taking into consideration approved appropriations bills and other costs likely to be incurred in the future, such as relief for hurricane victims, Kosovo, and health care providers.

(3) These across-the-board cuts would sharply reduce military readiness and long-term defense modernization programs, cut emergency aid to farmers and hurricane victims, reduce the number of children served by Head Start, cut back aid to schools to help reduce the class size, severely limit the number of veterans served in VA hospitals, reduce the number of FBI and Border Patrol agents, restrict funding for important transportation investments, and limit funding for environmental cleanup sites.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that instead of raiding social security surpluses or indiscriminately cutting defense, emergency relief, education, veterans' health care, law enforcement, transportation, environmental cleanup, and other discretionary appropriations across the board, Congress should fund fiscal year 2000 appropriations, without using budget scorekeeping gimmicks, by closing special-interest tax loopholes and using other appropriate offsets.

KENNEDY AMENDMENT NO. 2268

Mr. KENNEDY proposed an amendment to the bill, S. 1650, supra; as follows:

At the appropriate place, insert the following:

In order to improve the quality of education funds available for education, including funds for Title 1, the Individuals with Disabilities Education Act and Pell Grants shall be excluded from any across-the-board reduction.

ABRAHAM (AND OTHERS) AMENDMENT NO. 2269

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. COVERDELL, Mr. GRASSLEY, Mr. ASHCROFT, and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed by them to amendment No. 1828 proposed by Mr. COVERDELL to the bill, S. 1650, supra; as follows:

Strike all after the first word and insert the following:

Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug. This provision shall become effective one day after the date of enactment.

NOTICE OF HEARING

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Tuesday, October 19, 1999, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1608, a bill to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide a new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

SUBCOMMITTEE ON WATER AND POWER

Mr. SMITH. Mr. President, I would like to announce for the information of the Senate and the public that a legislative hearing has been scheduled before the Subcommittee on Water and Power.

The purpose of this hearing is to receive testimony on S. 1167, a bill to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for expanding the scope of the Independent Scientific Review Panel; S. 1694, a bill to direct the Secretary of the Interior to conduct a study on the reclamation and reuse of water and wastewater in the State of Hawaii; S. 1612, a bill to direct the Secretary of the Interior to convey certain irrigation project property to certain irrigation and reclamation districts in the State of Nebraska; S. 1474, providing conveyance of the Palmetto Bend project to the State of Texas; S. 1697, to authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982; and S. 1178, a bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project, South Dakota, to the Commission of Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

The hearing will take place on Wednesday, October 20, 1999, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington DC 20510–6150.

For further information, please call Kristin Phillips, Staff Assistant or Colleen Deegan, Counsel.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Wednesday, October 6, 1999. The purpose of this meeting will be to discuss the science of biotechnology and its potential applications to agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m., on Wednesday, October 6, 1999, in open session in SH–216 and in closed session in SH–219, to receive testimony on the national security implications of the Comprehensive Test Ban Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SPECTER. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, October 6, 3 p.m., to receive testimony from Skila Harris, nominated by the President to be a member of the board of directors, Tennessee Valley Authority; Glenn L. McCullough, Jr., nominated by the President to be a member of the board of directors of the Tennessee Valley Authority; and Gerald V. Poje, nominated by the President to be a member of the Chemical Safety and Hazard Investigation Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SPECTER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the

Senate on Wednesday, October 6, 1999, at 10 a.m. and 2:15 p.m., to hold two hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SPECTER. Mr. President, the Committee on the Judiciary requests unanimous consent to conduct a hearing on Wednesday, October 6, 1999, beginning at 2 p.m., in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 6, 1999, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. SPECTER. Mr. President, I ask unanimous consent that the Surface Transportation and Merchant Marine Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, October 6, 1999, at 9:30 a.m., on the Cruise Ship Tourism Development Act of 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. SPECTER. Mr. President, the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information requests unanimous consent to conduct a hearing on Wednesday, October 6, 1999, beginning at 10 a.m., in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO THE ATLANTA BRAVES

● Mr. CLELAND. Mr. President, I rise today to pay tribute to the Atlanta Braves baseball team for winning their eighth consecutive divisional championship and, once again, finishing the season with the best record in Major League Baseball. While their record may suggest that this championship was won with a great deal of ease, this could not be further from the truth. Before the season began, the Braves and baseball as a whole were shaken by the news that Andreas Galarraga, the All-Star first baseman of the Braves, had been diagnosed with non-hodgkin's lymphoma, a form of cancer. Although Galarraga had to sit own the entire 1999 season, he has now fully recovered and everyone is eagerly awaiting his return to the field next year.

Despite the loss of Galarraga and several other individuals who had been an integral part of the previous championship teams, the Atlanta Braves never gave up. Through this difficult time, the Braves played to the best of their ability and exceeded everyone's expectations. This season the Braves won more games than any other team in baseball which is why, including the worst to first season of 1991, this season may have been the most meaningful of all their recent successes.

In this year when each major league team individually celebrated Hank Aaron Day—a day devoted to the memory of baseball's all time homerun leader breaking Babe Ruth's staggering record of 714 homers—the Atlanta Braves once again rose to the top. Their national following combined with their hard work and perseverance have given the Braves the moniker of ''America's Team,'' an honor well suited for these champions.●

COOPERATIVES

● Mr. CONRAD. Mr. President, October is ''Co-op Month,'' and today I would like to stress the importance of cooperatives to the nation and especially to my state of North Dakota. Cooperatives are pure examples of good business—companies formed, owned and democratically controlled by the people who use its services and who receive benefits from patronage. Cooperatives are institutions that demonstrate people making their lives better through hard work and their knowledge of the American economic system.

In fact, the notion of cooperation is an ideal—people working together to accomplish a task and provide products and services for the public good. It is this basic philosophical idea, which so many find difficult to achieve, that the citizens of my state have been particularly adept at making a reality. North Dakota farmers have been leaders when it comes to improving their economic and social positions through cooperative community enterprise. From the great traditions of early political movements that created cooperative momentum—the American Society of Equity, the Nonpartisan League, and the Farmers Union—an educational base was formed that today still influences the drive for cooperative development. As a result, electricity and telephone service, pasta, sugar, bison and scores of other marketing and service cooperatives cover North Dakota today. Income is distributed, products and services are supplied, and employment and opportunity are spread throughout the state.

Cooperatives are formed to protect the way of life for independent producers and provide essential services for rural communities. Member education, one-member, one-vote equity in business decisions, and relying on neighbors to form and maintain the institution are all cooperative principles that underpin the success of these ventures. The legendary hardships that have been overcome in my state's pioneering history required cooperation among neighbors for everything from food and shelter to aid in farm labor and human companionship. Cooperation and the formation of cooperative enterprise were logical means of ensuring rural survival. We have long known that through organization, we can accomplish any goal, and through cooperation we can work together to benefit all. Therefore, during October, the month designated to recognize the importance of cooperatives, I thank the members of cooperatives for taking the initiative to direct their economic futures and for contributing to the unique economic heritage of North Dakota and this nation.●

IN CELEBRATION OF REV. GREGORY J. JACKSON

● Mr. TORRICELLI. Mr. President, I rise today in recognition of the Reverend Gregory J. Jackson as he celebrates his 15th year as pastor of the Mount Olive Baptist Church in Hackensack, New Jersey. Reverend Jackson has been an ordained minister for over twenty-three years and has ministered to the Hackensack community since 1984. It is a pleasure for me to be able to honor his accomplishments.

Since his ordination on May 16, 1976, Reverend Jackson has worked to help those less fortunate throughout New York and New Jersey. During his career, Reverend Jackson has shown commitment to public service as well as dedication to the disabled. These life experiences have proved invaluable in his ministry. His activism is widely known and admired throughout the State of New Jersey.

In addition to his ministry in Hackensack, Reverend Jackson has played a very active role in strengthening the political and economic life of New Jersey. He has served on a number of civic organizations including the NAACP of Bergen County, Fair Housing Board of Bergen County, and the Advisory Board of the Office on Aging. He has also served as the President of the Hackensack Board of Education, Treasurer of the North Jersey Baptist Association, Vice-President of the Fellowship of Black Churches and as Vice-President of the Bergen County Council of Churches. Reverend Jackson recently been named as Director of Promotions of the Lott Carey Baptist Foreign Mission Convention.

Although Reverend Jackson has dedicated so much time to civic organizations, he has never lost sight of the need to serve his community. During his fifteen year tenure as the pastor of Mount Olive Baptist Church, the parish has grown by more than 1,000 new members. In addition, Reverend Jackson has implemented ministry programs to improve the Hackensack community both spiritually and educationally.

I am pleased to recognize a leader of great stature in New Jersey, and a close friend. Through all of the years

we have spent, working to strengthen New Jersey's communities, I have always known Reverend Jackson to stand on principle, loyalty, and commitment. I look forward to continuing to work with Reverend Jackson, and I wish him the best as he celebrates this momentous occasion.●

RECOGNITION OF THE SS *WAYNE VICTORY*

● Mr. LEVIN. Mr. President, I rise today to call my colleagues' attention to a new exhibit of artifacts from the SS *Wayne Victory*. The exhibit, which is located at Wayne State University in my home town of Detroit, MI, is being dedicated on Friday, October 8, 1999.

The SS *Wayne Victory* was a so-called ''Victory Ship,'' one of several hundred ships built during the final two years of World War II to serve as cargo and troop transport vessels. The SS *Wayne Victory* was named for Wayne University, now known as Wayne State University. Commissioned in 1945, the SS *Wayne Victory* served in World War II, the Korean conflict and the Vietnam war.

Thanks to the efforts of a Wayne State University alumnus, the contributions of the SS *Wayne Victory* to our armed forces will be celebrated for years to come. Many ships of its kind fell into disuse and were forgotten after their service. Fortunately, Joe Gerson, who grew up in Detroit and graduated from Wayne State University in 1951, located the SS *Wayne Victory* and negotiated with the federal government for the permanent loan of several artifacts from the ship to the university. These artifacts include the ship's bell, engine order telegraph, wheel, furniture, oars, life rings, and name board. Mr. Gerson also generously contributed funds which allowed the university to transport the artifacts to Detroit and to display them in the permanent exhibit being dedicated this Friday.

Mr. President, the preservation of artifacts like those from the SS *Wayne Victory* is critical if we are to continue to learn from history. Thanks to Joe Gerson and Wayne State University, one small, but significant, piece of American military history will be available for people to study in the 21st century. I know my colleagues join me in extending Joe Gerson and Wayne State University our thanks and congratulations for their commitment to the preservation of the memory of the SS *Wayne Victory*'s role in some of the most significant military conflicts in our nation's history.●

AIR TRANSPORTATION IMPROVEMENT ACT

On October 5, 1999, amended and passed H.R. 1000. The bill, as amended, follows:

Resolved, That the bill from the House of Representatives (H.R. 1000) entitled ''An Act to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Air Transportation Improvement Act''.

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; table of sections.
Sec. 2. Amendments to title 49, United States Code.

TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Airport planning and development and noise compatibility planning and programs.
Sec. 104. Reprogramming notification requirement.
Sec. 105. Airport security program.
Sec. 106. Automated surface observation system stations.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

Sec. 201. Removal of the cap on discretionary fund.
Sec. 202. Innovative use of airport grant funds.
Sec. 203. Matching share.
Sec. 204. Increase in apportionment for noise compatibility planning and programs.
Sec. 205. Technical amendments.
Sec. 206. Report on efforts to implement capacity enhancements.
Sec. 207. Prioritization of discretionary projects.
Sec. 208. Public notice before grant assurance requirement waived.
Sec. 209. Definition of public aircraft.
Sec. 210. Terminal development costs.
Sec. 211. Airfield pavement conditions.
Sec. 212. Discretionary grants.
Sec. 213. Contract tower cost-sharing.

TITLE III—AMENDMENTS TO AVIATION LAW

Sec. 301. Severable services contracts for periods crossing fiscal years.
Sec. 302. Stage 3 noise level compliance for certain aircraft.
Sec. 303. Government and industry consortia.
Sec. 304. Implementation of Article 83 Bis of the Chicago Convention.
Sec. 305. Foreign aviation services authority.
Sec. 306. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act.
Sec. 307. Extension of Aviation Insurance Program.
Sec. 308. Technical corrections to civil penalty provisions.
Sec. 309. Criminal penalty for pilots operating in air transportation without an airman's certificate.
Sec. 310. Nondiscriminatory interline interconnection requirements.
Sec. 311. Review process for emergency orders under section 44709.

TITLE IV—MISCELLANEOUS

Sec. 401. Oversight of FAA response to year 2000 problem.
Sec. 402. Cargo collision avoidance systems deadline.
Sec. 403. Runway safety areas; precision approach path indicators.
Sec. 404. Airplane emergency locators.
Sec. 405. Counterfeit aircraft parts.
Sec. 406. FAA may fine unruly passengers.
Sec. 407. Higher standards for handicapped access.
Sec. 408. Conveyances of United States Government land.
Sec. 409. Flight operations quality assurance rules.
Sec. 410. Wide area augmentation system.
Sec. 411. Regulation of Alaska guide pilots.
Sec. 412. Alaska rural aviation improvement.
Sec. 413. Human factors program.
Sec. 414. Independent validation of FAA costs and allocations.
Sec. 415. Application of Federal Procurement Policy Act.
Sec. 416. Report on modernization of oceanic ATC system.
Sec. 417. Report on air transportation oversight system.
Sec. 418. Recycling of EIS.
Sec. 419. Protection of employees providing air safety information.
Sec. 420. Improvements to air navigation facilities.
Sec. 421. Denial of airport access to certain air carriers.
Sec. 422. Tourism.
Sec. 423. Sense of the Senate on property taxes on public-use airports.
Sec. 424. Federal Aviation Administration Personnel Management System.
Sec. 425. Authority to sell aircraft and aircraft parts for use in responding to oil spills.
Sec. 426. Aircraft and aviation component repair and maintenance advisory panel.
Sec. 427. Aircraft situational display data.
Sec. 428. Allocation of Trust Fund funding.
Sec. 429. Taos Pueblo and Blue Lakes Wilderness Area demonstration project.
Sec. 430. Airline marketing disclosure.
Sec. 431. Compensation under the Death on the High Seas Act.
Sec. 432. FAA study of breathing hoods.
Sec. 433. FAA study of alternative power sources for flight data recorders and cockpit voice recorders.
Sec. 434. Passenger facility fee letters of intent.
Sec. 435. Elimination of HAZMAT enforcement backlog.
Sec. 436. FAA evaluation of long-term capital leasing.
Sec. 437. Prohibitions against smoking on scheduled flights.
Sec. 438. Designating current and former military airports.
Sec. 439. Rolling stock equipment.
Sec. 440. Monroe Regional Airport land conveyance.
Sec. 441. Cinncinati-Municipal Blue Ash Airport.
Sec. 442. Report on Specialty Metals Consortium.
Sec. 443. Pavement condition.
Sec. 444. Inherently low-emission airport vehicle pilot program.
Sec. 445. Conveyance of airport property to an institution of higher education in Oklahoma.
Sec. 446. Automated Surface Observation System/Automated Weather Observing System Upgrade.
Sec. 447. Terminal Automated Radar Display and Information System.
Sec. 448. Cost/benefit analysis for retrofit of 16G seats.
Sec. 449. Raleigh County, West Virginia, Memorial Airport.
Sec. 450. Airport safety needs.
Sec. 451. Flight training of international students.
Sec. 452. Grant Parish, Louisiana.
Sec. 453. Designation of general aviation airport.
Sec. 454. Airline Deregulation Study Commission.
Sec. 455. Nondiscrimination in the use of private airports.
Sec. 456. Curfew.
Sec. 457. Federal Aviation Administration Year 2000 Technology Safety Enforcement Act of 1999.

Sec. 458. Expressing the sense of the Senate concerning air traffic over northern Delaware.
Sec. 459. Study of outdoor air, ventilation, and recirculation air requirements for passenger cabins in commercial aircraft.
Sec. 460. General Aviation Metropolitan Access and Reliever Airport Grant Fund.
Sec. 461. Study on airport noise.
Sec. 462. Sense of the Senate concerning EAS.
Sec. 463. Airline quality service reports.
Sec. 464. Prevention of frauds involving aircraft or space vehicle parts in interstate or foreign commerce.
Sec. 465. Preservation of essential air service at dominated hub airports.
Sec. 466. Availability of funds for Georgia's regional airport enhancement program.

TITLE V—AVIATION COMPETITION PROMOTION

Sec. 501. Purpose.
Sec. 502. Establishment of small community aviation development program.
Sec. 503. Community-carrier air service program.
Sec. 504. Authorization of appropriations.
Sec. 505. Marketing practices.
Sec. 506. Changes in, and phase-out of, slot rules.
Sec. 507. Consumer notification of e-ticket expiration dates.
Sec. 508. Regional air service incentive options.
Sec. 509. Requirement to enhance competitiveness of slot exemptions for regional jet air service and new entrant air carriers at certain high density traffic airports.

TITLE VI—NATIONAL PARKS OVERFLIGHTS

Sec. 601. Findings.
Sec. 602. Air tour management plans for national parks.
Sec. 603. Advisory group.
Sec. 604. Overflight fee report.
Sec. 605. Prohibition of commercial air tours over the Rocky Mountain National Park.

TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

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Sec. 1002. Removal of limitation.

TITLE XI—NOISE ABATEMENT

Sec. 1101. Good neighbors policy.
Sec. 1102. GAO review of aircraft engine noise assessment.
Sec. 1103. GAO review of FAA community noise assessment.

TITLE XII—STUDY TO ENSURE CONSUMER INFORMATION

Sec. 1201. Short title.
Sec. 1202. National Commission to Ensure Consumer Information and Choice in the Airline Industry.

TITLE XIII—FEDERAL AVIATION RESEARCH, ENGINEERING, AND DEVELOPMENT

Sec. 1301. Authorization of appropriations.
Sec. 1302. Integrated national aviation research plan.
Sec. 1303. Internet availability of information.
Sec. 1304. Research on nonstructural aircraft systems.
Sec. 1305. Post Free Flight Phase I activities.
Sec. 1306. Research program to improve airfield pavements.
Sec. 1307. Sense of Senate regarding protecting the frequency spectrum used for aviation communication.
Sec. 1308. Study.

TITLE XIV—AIRLINE CUSTOMER SERVICE COMMITMENT

Sec. 1401. Airline customer service reports.
Sec. 1402. Increased financial responsibility for lost baggage.
Sec. 1403. Increased penalty for violation of aviation consumer protection laws.
Sec. 1404. Comptroller General investigation.
Sec. 1405. Funding of enforcement of airline consumer protections.

TITLE XV—PENALTIES FOR UNRULY PASSENGERS

Sec. 1501. Penalties for unruly passengers.
Sec. 1502. Deputizing of strike State and local law enforcement officers.
Sec. 1503. Study and report on aircraft noise.

TITLE XVI—AIRLINE COMMISSION

Sec. 1601. Short title.
Sec. 1602. National Commission to Ensure Consumer Information and Choice in the Airline Industry.

TITLE XVII—TRANSPORTATION OF ANIMALS

Sec. 1701. Short title; table of contents.
Sec. 1702. Findings.

SUBTITLE A—ANIMAL WELFARE

Sec. 1711. Definition of transport.
Sec. 1712. Information on incidence of animals in air transport.
Sec. 1713. Reports by carriers on incidents involving animals during air transport.
Sec. 1714. Annual reports.

SUBTITLE B—TRANSPORTATION

Sec. 1721. Policies and procedures for transporting animals.
Sec. 1722. Civil penalties and compensation for loss, injury, or death of animals during air transport.
Sec. 1723. Cargo hold improvements to protect animal health and safety.

SEC. 2. AMENDMENTS TO TITLE 49, 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 a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—AUTHORIZATIONS

SEC. 101. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.—Section 106(k) is amended to read as follows:

''(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for operations of the Administration $5,632,000,000 for fiscal year 1999, $5,784,000,000 for fiscal year 2000, $6,073,000,000 for fiscal year 2001, and $6,377,000,000 for fiscal year 2002. Of the amounts authorized to be appropriated for fiscal year 2000, not more than $9,100,000 shall be used to support air safety efforts through payment of United States membership obligations, to be paid as soon as practicable.

''(2) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under paragraph (1) $450,000 may be used for wildlife hazard mitigation measures and management of the wildlife strike database of the Federal Aviation Administration.

''(3) UNIVERSITY CONSORTIUM.—There are authorized to be appropriated not more than $9,100,000 for the 3 fiscal year period beginning with fiscal year 2000 to support a university consortium established to provide an air safety and security management certificate program, working cooperatively with the Federal Aviation Administration and United States air carriers. Funds authorized under this paragraph—

''(A) may not be used for the construction of a building or other facility; and

''(B) shall be awarded on the basis of open competition.''.

(b) COORDINATION.—The authority granted the Secretary under section 41720 of title 49, United States Code, does not affect the Secretary's authority under any other provision of law.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

(a) IN GENERAL.—Section 48101(a) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) $2,131,000,000 for fiscal year 1999.
''(2) $2,689,000,000 for fiscal year 2000.
''(3) $2,799,000,000 for fiscal year 2001.
''(4) $2,914,000,000 for fiscal year 2002.''.

(b) CONTINUATION OF ILS INVENTORY PROGRAM.—Section 44502(a)(4)(B) is amended—

(1) by striking ''fiscal years 1995 and 1996'' and inserting ''fiscal years 1999 through 2002''; and

(2) by striking ''acquisition,'' and inserting ''acquisition under new or existing contracts,''.

(c) LIFE-CYCLE COST ESTIMATES.—The Administrator of the Federal Aviation Administration shall establish life-cycle cost estimates for any air traffic control modernization project the total life-cycle costs of which equal or exceed $50,000,000.

SEC. 103. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) EXTENSION AND AUTHORIZATION.—Section 48103 is amended by striking ''1999.'' and inserting ''1999, $4,885,000,000 for fiscal years ending before October 1, 2000, $7,295,000,000 for fiscal years ending before October 1, 2001, and $9,705,000,000 for fiscal years ending before October 1, 2002.''.

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) is amended by striking ''September 30, 1999,'' and inserting ''September 30, 2002,''.

SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.

Before reprogramming any amounts appropriated under section 106(k), 48101(a), or 48103 of title 49, United States Code, for which notification of the Committees on Appropriations of the Senate and the House of Representatives is required, the Secretary of Transportation shall submit a written explanation of the proposed reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 105. AIRPORT SECURITY PROGRAM.

(a) IN GENERAL.—Chapter 471 (as amended by section 202(a) of this Act) is amended by adding at the end thereof the following new section:

''§ 47136. Airport security program

''(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than 1 project to test and evaluate innovative aviation security systems and related technology.

''(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

''(1) evaluates and tests the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation and aircraft physical security, access control, and passenger and baggage screening; and

''(2) provides testing and evaluation of airport security systems and technology in an operational, testbed environment.

''(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section is 100 percent.

''(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

''(e) ELIGIBLE SPONSOR DEFINED.—In this section, the term 'eligible sponsor' means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

''(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than $5,000,000 for the purpose of carrying out this section.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for such chapter (as amended by section 202(b) of this Act) is amended by inserting after the item relating to section 47135 the following:

''47136. Airport security program.''.

SEC. 106. AUTOMATED SURFACE OBSERVATION SYSTEM STATIONS.

The Administrator of the Federal Aviation Administration shall not terminate human weather observers for Automated Surface Observation System stations until—

(1) the Secretary of Transportation determines that the System provides consistent reporting of changing meteorological conditions and notifies the Congress in writing of that determination; and

(2) 60 days have passed since the report was submitted to the Congress.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

SEC. 201. REMOVAL OF THE CAP ON DISCRETIONARY FUND.

Section 47115(g) is amended by striking paragraph (4).

SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.

(a) CODIFICATION AND IMPROVEMENT OF 1996 PROGRAM.—Subchapter I of chapter 471 is amended by adding at the end thereof the following:

''§ 47135. Innovative financing techniques

''(a) IN GENERAL.—The Secretary of Transportation is authorized to carry out a demonstration program under which the Secretary may approve applications under this subchapter for not more than 20 projects for which grants received under the subchapter may be used to implement innovative financing techniques.

''(b) PURPOSE.—The purpose of the demonstration program shall be to provide information on the use of innovative financing techniques for airport development projects.

''(c) LIMITATION.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

''(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term 'innovative financing technique' includes methods of financing projects that the Secretary determines may be beneficial to airport development, including—

''(1) payment of interest;

''(2) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development; and

''(3) flexible non-Federal matching requirements.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47134 the following:

''47135. Innovative financing techniques.''.

SEC. 203. MATCHING SHARE.

Section 47109(a)(2) is amended by inserting ''not more than'' before ''90 percent''.

SEC. 204. INCREASE IN APPORTIONMENT FOR NOISE COMPATIBILITY PLANNING AND PROGRAMS.

Section 47117(e)(1)(A) is amended by striking ''31'' each time it appears and inserting ''35''.

SEC. 205. TECHNICAL AMENDMENTS.

(a) USE OF APPORTIONMENTS FOR ALASKA, PUERTO RICO, AND HAWAII.—Section 47114(d)(3) is amended to read as follows:

''(3) An amount apportioned under paragraph (2) of this subsection for airports in Alaska, Hawaii, or Puerto Rico may be made available by the Secretary for any public airport in those respective jurisdictions.''.

(b) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—Section 47114(e) is amended—

(1) by striking ''ALTERNATIVE'' in the subsection caption and inserting ''SUPPLEMENTAL'';

(2) in paragraph (1) by—

(A) striking ''Instead of apportioning amounts for airports in Alaska under'' and inserting ''Notwithstanding''; and

(B) striking ''those airports'' and inserting ''airports in Alaska''; and

(3) striking paragraph (3) and inserting the following:

''(3) An amount apportioned under this subsection may be used for any public airport in Alaska.''.

(c) REPEAL OF APPORTIONMENT LIMITATION ON COMMERCIAL SERVICE AIRPORTS IN ALASKA.—Section 47117 is amended by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(d) CONTINUATION OF PROJECT FUNDING.—Section 47108 is amended by adding at the end thereof the following:

''(e) CHANGE IN AIRPORT STATUS.—If the status of a primary airport changes to a nonprimary airport at a time when a development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 of this title at the funding level and under the terms provided by the agreement, subject to the availability of funds.''.

(e) GRANT ELIGIBILITY FOR PRIVATE RELIEVER AIRPORTS.—Section 47102(17)(B) is amended—

(1) by striking ''or'' at the end of clause (i) and redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following:

''(ii) a privately-owned airport that, as a reliever airport, received Federal aid for airport development prior to October 9, 1996, but only if the Administrator issues revised administrative guidance after July 1, 1998, for the designation of reliever airports; or''.

(f) PASSENGER FACILITY FEE WAIVER FOR CERTAIN CLASS OF CARRIERS.—Section 40117(e)(2) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (B);

(2) by striking ''payment.'' in subparagraph (C) and inserting ''payment;''; and

(3) by adding at the end thereof the following:

''(D) on flights, including flight segments, between 2 or more points in Hawaii.''.

(g) PASSENGER FACILITY FEE WAIVER FOR CERTAIN CLASS OF CARRIERS OR FOR SERVICE TO AIRPORTS IN ISOLATED COMMUNITIES.—Section 40117(i) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking ''transportation.'' in paragraph (2)(D) and inserting ''transportation; and''; and

(3) by adding at the end thereof the following:

''(3) may permit a public agency to request that collection of a passenger facility fee be waived for—

''(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

''(B) passengers enplaned on a flight to an airport—

''(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

''(ii) in a community which has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.''.

(h) USE OF THE WORD ''GIFT'' AND PRIORITY FOR AIRPORTS IN SURPLUS PROPERTY DISPOSAL.—

(1) Section 47151 is amended—

(A) by striking ''give'' in subsection (a) and inserting ''convey to'';

(B) by striking ''gift'' in subsection (a)(2) and inserting ''conveyance'';

(C) by striking ''giving'' in subsection (b) and inserting ''conveying'';

(D) by striking ''gift'' in subsection (b) and inserting ''conveyance''; and

(E) by adding at the end thereof the following:

''(d) PRIORITY FOR PUBLIC AIRPORTS.—Except for requests from another Federal agency, a department, agency, or instrumentality of the Executive Branch of the United States Government shall give priority to a request by a public agency (as defined in section 47102 of this title) for surplus property described in subsection (a) of this section for use at a public airport.''.

(2) Section 47152 is amended—

(A) by striking ''***gifts***'' in the section caption and inserting ''***conveyances***''; and

(B) by striking ''gift'' in the first sentence and inserting ''conveyance''.

(3) The chapter analysis for chapter 471 is amended by striking the item relating to section 47152 and inserting the following:

''47152. Terms of conveyances.''.

(4) Section 47153(a) is amended—

(A) by striking ''gift'' in paragraph (1) and inserting ''conveyance'';

(B) by striking ''given'' in paragraph (1)(A) and inserting ''conveyed''; and

(C) by striking ''gift'' in paragraph (1)(B) and inserting ''conveyance''.

(i) MINIMUM APPORTIONMENT.—Section 47114(c)(1)(B) is amended by adding at the end thereof the following: ''For fiscal years beginning after fiscal year 1999, the preceding sentence shall be applied by substituting '$650,000' for '$500,000'.''.

(j) APPORTIONMENT FOR CARGO ONLY AIRPORTS.—

(1) Section 47114(c)(2)(A) is amended by striking ''2.5 percent'' and inserting ''3 percent''.

(2) Section 47114(c)(2) is further amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(k) TEMPORARY AIR SERVICE INTERRUPTIONS.—Section 47114(c)(1) is amended by adding at the end thereof the following:

''(C) The Secretary may, notwithstanding subparagraph (A), apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that—

''(i) passenger boardings at the airport fell below 10,000 in the calendar year used to calculate the apportionment;

''(ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate apportionments to airport sponsors in a fiscal year; and

''(iii) the cause of the shortfall in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the affected airport.''.

(l) FLEXIBILITY IN PAVEMENT DESIGN STANDARDS.—Section 47114(d) is amended by adding at the end thereof the following:

''(4) The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight, if the Secretary determines that—

''(A) safety will not be negatively affected; and

''(B) the life of the pavement will not be shorter than it would be if constructed using Administration standards.

An airport may not seek funds under this subchapter for runway rehabilitation or reconstruction of any such airfield pavement constructed using State highway specifications for a period of 10 years after construction is completed.''.

(m) ELIGIBILITY OF RUNWAY INCURSION PREVENTION DEVICES.—

(1) POLICY.—Section 47101(a)(11) is amended by inserting ''(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)'' after ''activities''.

(2) MAXIMUM USE OF SAFETY FACILITIES.—Section 47101(f) is amended—

(A) by striking ''and'' at the end of paragraph (9); and

(B) by striking ''area.'' in paragraph (10) and inserting ''area; and''; and

(C) by adding at the end the following:

''(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.''.

(3) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3)(B)(ii) is amended by inserting ''and including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices'' before the semicolon at the end.

(n) TECHNICAL AMENDMENTS.—Section 47116(d) is amended—

(1) by striking ''In making'' and inserting the following:

''(1) CONSTRUCTION OF NEW RUNWAYS.—In making'';

(2) by adding at the end the following:

''(2) AIRPORT DEVELOPMENT FOR TURBINE POWERED AIRCRAFT.—In making grants to sponsors described in subsection (b)(1), the Secretary shall give priority consideration to airport development projects to support operations by turbine powered aircraft, if the non-Federal share of the project is at least 40 percent.''; and

(3) by aligning the remainder of paragraph (1) (as designated by subparagraph (A) of this paragraph) with paragraph (2) (as added by subparagraph (B) of this paragraph).

SEC. 206. REPORT ON EFFORTS TO IMPLEMENT CAPACITY ENHANCEMENTS.

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on efforts by the Federal Aviation Administration to implement capacity enhancements and improvements, both technical and procedural, such as precision runway monitoring systems, and the time frame for implementation of such enhancements and improvements.

SEC. 207. PRIORITIZATION OF DISCRETIONARY PROJECTS.

Section 47120 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''In''; and

(2) by adding at the end thereof the following:

''(b) DISCRETIONARY FUNDING TO BE USED FOR HIGHER PRIORITY PROJECTS.—The Administrator of the Federal Aviation Administration shall discourage airport sponsors and airports from using entitlement funds for lower priority projects by giving lower priority to discretionary projects submitted by airport sponsors and airports that have used entitlement funds for projects that have a lower priority than the projects for which discretionary funds are being requested.''.

SEC. 208. PUBLIC NOTICE BEFORE GRANT ASSURANCE REQUIREMENT WAIVED.

(a) IN GENERAL.—Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may not waive any assurance required under section 47107 of title 49, United States Code, that requires property to be used for aeronautical purposes unless the Secretary provides notice to the public not less than 30 days before issuing any such waiver. Nothing in this section shall be construed to authorize the Secretary to issue a waiver of any assurance required under that section.

(b) EFFECTIVE DATE.—This section applies to any request filed on or after the date of enactment of this Act.

SEC. 209. DEFINITION OF PUBLIC AIRCRAFT.

Section 40102(a)(37)(B)(ii) is amended—

(1) by striking ''or'' at the end of subclause (I);

(2) by striking the ''States.'' in subclause (II) and inserting ''States; or''; and

(3) by adding at the end thereof the following:

''(III) transporting persons aboard the aircraft if the aircraft is operated for the purpose of prisoner transport.''.

SEC. 210. TERMINAL DEVELOPMENT COSTS.

Section 40117 is amended by adding at the end thereof the following:

''(j) SHELL OF TERMINAL BUILDING.—In order to enable additional air service by an air carrier with less than 50 percent of the scheduled passenger traffic at an airport, the Secretary may consider the shell of a terminal building (including heating, ventilation, and air conditioning) and aircraft fueling facilities adjacent to an airport terminal building to be an eligible airport-related project under subsection (a)(3)(E).''.

SEC. 211. AIRFIELD PAVEMENT CONDITIONS.

(a) EVALUATION OF OPTIONS.—The Administrator of the Federal Aviation Administration shall evaluate options for improving the quality of information available to the Administration on airfield pavement conditions for airports that are part of the national air transportation system, including—

(1) improving the existing runway condition information contained in the Airport Safety Data Program by reviewing and revising rating criteria and providing increased training for inspectors;

(2) requiring such airports to submit pavement condition index information as part of their airport master plan or as support in applications for airport improvement grants; and

(3) requiring all such airports to submit pavement condition index information on a regular basis and using this information to create a pavement condition database that could be used in evaluating the cost-effectiveness of project applications and forecasting anticipated pavement needs.

(b) REPORT TO CONGRESS.—The Administrator shall transmit a report, containing an evaluation of such options, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 12 months after the date of enactment of this Act.

SEC. 212. DISCRETIONARY GRANTS.

Notwithstanding any limitation on the amount of funds that may be expended for grants for noise abatement, if any funds made available under section 48103 of title 49, United States Code, remain available at the end of the fiscal year for which those funds were made available, and are not allocated under section 47115 of that title, or under any other provision relating to the awarding of discretionary grants from unobligated funds made available under section 48103 of that title, the Secretary of Transportation may use those funds to make discretionary grants for noise abatement activities.

SEC. 213. CONTRACT TOWER COST-SHARING.

Section 47124(b) is amended by adding at the end the following:

''(3) CONTRACT AIR TRAFFIC CONTROL TOWER PILOT PROGRAM.—

''(A) IN GENERAL.—The Secretary shall establish a pilot program to contract for air traffic control services at Level I air traffic control towers, as defined by the Administrator of the Federal Aviation Administration, that do not qualify for the Contract Tower Program established under subsection (a) and continued under paragraph (1) (hereafter in this paragraph referred to as the 'Contract Tower Program').

''(B) PROGRAM COMPONENTS.—In carrying out the pilot program established under subparagraph (A), the Administrator shall—

''(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Administrator;

''(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a one-to-one benefit-to-cost ratio, as required for eligibility under the Contract Tower Program; and

''(iii) approve for participation no more than 2 facilities willing to fund up to 50 percent, but not less than 25 percent, of construction costs for an air traffic control tower built by the airport operator and for each of such facilities the Federal share of construction cost does not exceed $1,100,000.

''(C) PRIORITY.—In selecting facilities to participate in the program under this paragraph, the Administrator shall give priority to the following:

''(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Administrator has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

''(ii) Air traffic control towers that the Administrator determines have a benefit-to-cost ratio of at least .50.

''(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

''(iv) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

''(v) Air traffic control towers that are located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

''(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic control tower under the pilot program established under this paragraph exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefits.

''(E) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriation

$6,000,000 per fiscal year to carry out this paragraph.''.

TITLE III—AMENDMENTS TO AVIATION LAW

SEC. 301. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.

(a) Chapter 401 is amended by adding at the end thereof the following:

''§ 40125. Severable services contracts for periods crossing fiscal years

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

''(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a) of this section.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 401 is amended by adding at the end thereof the following:

''40125. Severable services contracts for periods crossing fiscal years.''.

SEC. 302. STAGE 3 NOISE LEVEL COMPLIANCE FOR CERTAIN AIRCRAFT.

(a) EXEMPTION FOR AIRCRAFT MODIFICATION OR DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING-RELATED FLIGHTS.—Section 47528 is amended—

(1) by striking ''subsection (b)'' in subsection (a) and inserting ''subsection (b) or (f)'';

(2) by adding at the end of subsection (e) the following:

''(4) An air carrier operating Stage 2 aircraft under this subsection may transport Stage 2 aircraft to or from the 48 contiguous States on a non-revenue basis in order—

''(A) to perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

''(B) conduct operations within the limitations of paragraph (2)(B).''; and

(3) adding at the end thereof the following:

''(f) AIRCRAFT MODIFICATION, DISPOSAL, SCHEDULED HEAVY MAINTENANCE, OR LEASING.—

''(1) IN GENERAL.—The Secretary shall permit a person to operate after December 31, 1999, a Stage 2 aircraft in nonrevenue service through the airspace of the United States or to or from an airport in the contiguous 48 States in order to—

''(A) sell, lease, or use the aircraft outside the contiguous 48 States;

''(B) scrap the aircraft;

''(C) obtain modifications to the aircraft to meet Stage 3 noise levels;

''(D) perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 States;

''(E) deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

''(F) prepare or park or store the aircraft in anticipation of any of the activities described in subparagraphs (A) through (E); or

''(G) divert the aircraft to an alternative airport in the contiguous 48 States on account of weather, mechanical, fuel, air traffic control, or other safety reasons while conducting a flight in order to perform any of the activities described in subparagraphs (A) through (F).

''(2) PROCEDURE TO BE PUBLISHED.—The Secretary shall establish and publish, not later than 30 days after the date of enactment of the Air Transportation Improvement Act a procedure to implement paragraph (1) of this subsection through the use of categorical waivers, ferry permits, or other means.''.

(b) NOISE STANDARDS FOR EXPERIMENTAL AIRCRAFT.—

(1) IN GENERAL.—Section 47528(a) is amended by inserting ''(for which an airworthiness certificate other than an experimental certificate has been issued by the Administrator)'' after ''civil subsonic turbojet''.

(2) FAR MODIFIED.—The Federal Aviation Regulations, contained in Part 14 of the Code of Federal Regulations, that implement section 47528 and related provisions shall be deemed to incorporate this change on the effective date of this Act.

SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.

Section 44903 is amended by adding at the end thereof the following:

''(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Administrator may establish at airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered federal advisory committees for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).''.

SEC. 304. IMPLEMENTATION OF ARTICLE 83 BIS OF THE CHICAGO CONVENTION.

Section 44701 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.—

''(1) Notwithstanding the provisions of this chapter, and pursuant to Article 83 Bis of the Convention on International Civil Aviation, the Administrator may, by a bilateral agreement with the aeronautical authorities of another country, exchange with that country all or part of their respective functions and duties with respect to aircraft described in subparagraphs (A) and (B), under the following articles of the Convention:

''(A) Article 12 (Rules of the Air).

''(B) Article 31 (Certificates of Airworthiness).

''(C) Article 32a (Licenses of Personnel).

''(2) The agreement under paragraph (1) may apply to—

''(A) aircraft registered in the United States operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in another country; or

''(B) aircraft registered in a foreign country operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business, or, if it has no such place of business, its permanent residence, in the United States.

''(3) The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) of this subsection for United States-registered aircraft transferred abroad as described in subparagraph (A) of that paragraph, and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad that are transferred to the United States as described in subparagraph (B) of that paragraph.

''(4) The Administrator may, in the agreement under paragraph (1), predicate the transfer of these functions and duties on any conditions the Administrator deems necessary and prudent.''.

SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.

Section 45301(a)(2) is amended to read as follows:

''(2) Services provided to a foreign government or to any entity obtaining services outside the United States other than—

''(A) air traffic control services; and

''(B) fees for production-certification-related service pertaining to aeronautical products manufactured outside the United States.''.

SEC. 306. FLEXIBILITY TO PERFORM CRIMINAL HISTORY RECORD CHECKS; TECHNICAL AMENDMENTS TO PILOT RECORDS IMPROVEMENT ACT.

Section 44936 is amended—

(1) by striking ''subparagraph (C))'' in subsection (a)(1)(B) and inserting ''subparagraph (C), or in the case of passenger, baggage, or property screening at airports, the Administrator decides it is necessary to ensure air transportation security)'';

(2) by striking ''individual'' in subsection (f)(1)(B)(ii) and inserting ''individual's performance as a pilot''; and

(3) by inserting ''or from a foreign government or entity that employed the individual,'' in subsection (f)(14)(B) after ''exists,''.

SEC. 307. EXTENSION OF AVIATION INSURANCE PROGRAM.

Section 44310 is amended by striking ''August 6, 1999.'' and inserting ''December 31, 2003.''.

SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

(1) by striking ''46302, 46303, or'' in subsection (a)(1)(A);

(2) by striking ''an individual'' the first time it appears in subsection (d)(7)(A) and inserting ''a person''; and

(3) by inserting ''or the Administrator'' in subsection (g) after ''Secretary''.

SEC. 309. CRIMINAL PENALTY FOR PILOTS OPERATING IN AIR TRANSPORTATION WITHOUT AN AIRMAN'S CERTIFICATE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

''§ 46317. Criminal penalty for pilots operating in air transportation without an airman's certificate

''(a) APPLICATION.—This section applies only to aircraft used to provide air transportation.

''(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than 3 years, or both, if that individual—

''(1) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity; or

''(2) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity.

''(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—

''(1) In this subsection, the term 'controlled substance' has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

''(2) An individual violating subsection (b) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and that transporting, aiding, or facilitating—

''(A) is punishable by death or imprisonment of more than 1 year under a Federal or State law; or

''(B) is related to an act punishable by death or imprisonment for more than 1 year under a Federal or State law related to a controlled substance (except a law related to simple possession (as that term is used in section 46306(c)) of a controlled substance).

''(3) A term of imprisonment imposed under paragraph (2) shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual subject to the imprisonment.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 463 is amended by adding at the end thereof the following:

''46317. Criminal penalty for pilots operating in air transportation without an airman's certificate.''.

SEC. 310. NONDISCRIMINATORY INTERLINE INTERCONNECTION REQUIREMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end thereof the following:

''§ 41717. Interline agreements for domestic transportation

''(a) NONDISCRIMINATORY REQUIREMENTS.—If a major air carrier that provides air service to an essential airport facility has any agreement involving ticketing, baggage and ground handling, and terminal and gate access with another carrier, it shall provide the same services to any requesting air carrier that offers service to a community selected for participation in the program under section 41743 under similar terms and conditions and on a nondiscriminatory basis within 30 days after receiving the request, as long as the requesting air carrier meets such safety, service, financial, and maintenance requirements, if any, as the Secretary may by regulation establish consistent with public convenience and necessity. The Secretary must review any proposed agreement to determine if the requesting carrier meets operational requirements consistent with the rules, procedures, and policies of the major carrier. This agreement may be terminated by either party in the event of failure to meet the standards and conditions outlined in the agreement.

''(b) DEFINITIONS.—In this section the term 'essential airport facility' means a large hub airport (as defined in section 41731(a)(3)) in the contiguous 48 States in which one carrier has more than 50 percent of such airport's total annual enplanements.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for subchapter I of chapter 417 is amended by adding at the end thereof the following:

''41717. Interline agreements for domestic transportation.''.

SEC. 311. REVIEW PROCESS FOR EMERGENCY ORDERS UNDER SECTION 44709.

Section 44709(e) is amended to read as follows:

''(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

''(1) IN GENERAL.—When a person files an appeal with the Board under subsection (d) of this section, the order of the Administrator is stayed.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the order of the Administrator is effective immediately if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately.

''(3) REVIEW OF EMERGENCY ORDER.—A person affected by the immediate effectiveness of the Administrator's order under paragraph (2) may request a review by the Board, under procedures promulgated by the Board, on the issues of the appeal that are related to the existence of an emergency. Any such review shall be requested within 48 hours after the order becomes effective. If the Administrator is unable to demonstrate to the Board that an emergency exists that requires the immediate application of the order in the interest of safety in air commerce and air transportation, the order shall, notwithstanding paragraph (2), be stayed. The Board shall dispose of a review request under this paragraph within 5 days after it is filed.

''(4) FINAL DISPOSITION.—The Board shall make a final disposition of an appeal under subsection (d) within 60 days after the appeal is filed.''.

TITLE IV—MISCELLANEOUS

SEC. 401. OVERSIGHT OF FAA RESPONSE TO YEAR 2000 PROBLEM.

The Administrator of the Federal Aviation Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure every 3 months through December 31, 2000, in oral or written form, on electronic data processing problems associated with the year 2000 within the Administration.

SEC. 402. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require by regulation that, not later than December 31, 2002, collision avoidance equipment be installed on each cargo airplane with a maximum certificated takeoff weight in excess of 15,000 kilograms.

(b) EXTENSION.—The Administrator may extend the deadline imposed by subsection (a) for not more than 2 years if the Administrator finds that the extension is needed to promote—

(1) a safe and orderly transition to the operation of a fleet of cargo aircraft equipped with collision avoidance equipment; or

(2) other safety or public interest objectives.

(c) COLLISION AVOIDANCE EQUIPMENT.—For purposes of this section, the term ''collision avoidance equipment'' means TCAS II equipment (as defined by the Administrator), or any other similar system approved by the Administrator for collision avoidance purposes.

SEC. 403. RUNWAY SAFETY AREAS; PRECISION APPROACH PATH INDICATORS.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall solicit comments on the need for—

(1) the improvement of runway safety areas; and

(2) the installation of precision approach path indicators.

SEC. 404. AIRPLANE EMERGENCY LOCATORS.

(a) REQUIREMENT.—Section 44712(b) is amended to read as follows:

''(b) NONAPPLICATION.—Subsection (a) does not apply to aircraft when used in—

''(1) scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

''(2) training operations conducted entirely within a 50-mile radius of the airport from which the training operations begin;

''(3) flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft;

''(4) showing compliance with regulations, exhibition, or air racing; or

''(5) the aerial application of a substance for an agricultural purpose.''.

(b) COMPLIANCE.—Section 44712 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following:

''(c) COMPLIANCE.—An aircraft is deemed to meet the requirement of subsection (a) if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency, or with other equipment approved by the Secretary for meeting the requirement of subsection (a).''.

(c) EFFECTIVE DATE; REGULATIONS.—

(1) REGULATIONS.—The Secretary of Transportation shall promulgate regulations under section 44712(b) of title 49, United States Code, as amended by this section not later than January 1, 2002.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 405. COUNTERFEIT AIRCRAFT PARTS.

(a) DENIAL; REVOCATION; AMENDMENT OF CERTIFICATE.—

(1) IN GENERAL.—Chapter 447 is amended by adding at the end thereof the following:

''§ 44725. Denial and revocation of certificate for counterfeit parts violations

''(a) DENIAL OF CERTIFICATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and subsection (e)(2) of this section, the Administrator may not issue a certificate under this chapter to any person—

''(A) convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

''(B) subject to a controlling or ownership interest of an individual convicted of such a violation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the Administrator may issue a certificate under this chapter to a person described in paragraph (1) if issuance of the certificate will facilitate law enforcement efforts.

''(b) REVOCATION OF CERTIFICATE.—

''(1) IN GENERAL.—Except as provided in subsections (f) and (g) of this section, the Administrator shall issue an order revoking a certificate issued under this chapter if the Administrator finds that the holder of the certificate, or an individual who has a controlling or ownership interest in the holder—

''(A) was convicted of a violation of a law of the United States or of a State relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material; or

''(B) knowingly carried out or facilitated an activity punishable under such a law.

''(2) NO AUTHORITY TO REVIEW VIOLATION.—In carrying out paragraph (1) of this subsection, the Administrator may not review whether a person violated such a law.

''(c) NOTICE REQUIREMENT.—Before the Administrator revokes a certificate under subsection (b), the Administrator shall—

''(1) advise the holder of the certificate of the reason for the revocation; and

''(2) provide the holder of the certificate an opportunity to be heard on why the certificate should not be revoked.

''(d) APPEAL.—The provisions of section 44710(d) apply to the appeal of a revocation order under subsection (b). For the purpose of applying that section to such an appeal, 'person' shall be substituted for 'individual' each place it appears.

''(e) ACQUITTAL OR REVERSAL.—

''(1) IN GENERAL.—The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate under subsection (b)(1)(B) of this section if the holder of the certificate, or the individual, is acquitted of all charges related to the violation.

''(2) REISSUANCE.—The Administrator may reissue a certificate revoked under subsection (b) of this section to the former holder if—

''(A) the former holder otherwise satisfies the requirements of this chapter for the certificate;

''(B) the former holder, or individual, is acquitted of all charges related to the violation on which the revocation was based; or

''(C) the conviction of the former holder, or individual, of the violation on which the revocation was based is reversed.

''(f) WAIVER.—The Administrator may waive revocation of a certificate under subsection (b) of this section if—

''(1) a law enforcement official of the United States Government, or of a State (with respect to violations of State law), requests a waiver; and

''(2) the waiver will facilitate law enforcement efforts.

''(g) AMENDMENT OF CERTIFICATE.—If the holder of a certificate issued under this chapter is other than an individual and the Administrator finds that—

''(1) an individual who had a controlling or ownership interest in the holder committed a violation of a law for the violation of which a certificate may be revoked under this section, or knowingly carried out or facilitated an activity punishable under such a law; and

''(2) the holder satisfies the requirements for the certificate without regard to that individual, then the Administrator may amend the certificate to impose a limitation that the certificate will not be valid if that individual has a controlling or ownership interest in the holder. A

decision by the Administrator under this subsection is not reviewable by the Board.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 447 is amended by adding at the end thereof the following:

''44725. Denial and revocation of certificate for counterfeit parts violations.''.

(b) PROHIBITION ON EMPLOYMENT.—Section 44711 is amended by adding at the end thereof the following:

''(c) PROHIBITION ON EMPLOYMENT OF CONVICTED COUNTERFEIT PART DEALERS.—No person subject to this chapter may employ anyone to perform a function related to the procurement, sale, production, or repair of a part or material, or the installation of a part into a civil aircraft, who has been convicted of a violation of any Federal or State law relating to the installation, production, repair, or sale of a counterfeit or falsely-represented aviation part or material.''.

SEC. 406. FAA MAY FINE UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 (as amended by section 309) is amended by adding at the end thereof the following:

''§ 46318. Interference with cabin or flight crew

''(a) IN GENERAL.—An individual who interferes with the duties or responsibilities of the flight crew or cabin crew of a civil aircraft, or who poses an imminent threat to the safety of the aircraft or other individuals on the aircraft, is liable to the United States Government for a civil penalty of not more than $10,000, which shall be paid to the Federal Aviation Administration and deposited in the account established by section 45303(c).

''(b) COMPROMISE AND SETOFF.—

''(1) The Secretary of Transportation or the Administrator may compromise the amount of a civil penalty imposed under subsection (a).

''(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.''.

(b) CONFORMING CHANGE.—The chapter analysis for chapter 463 is amended by adding at the end thereof the following:

''46318. Interference with cabin or flight crew.''.

SEC. 407. HIGHER STANDARDS FOR HANDICAPPED ACCESS.

(a) ESTABLISHMENT OF HIGHER INTERNATIONAL STANDARDS.—The Secretary of Transportation shall work with appropriate international organizations and the aviation authorities of other nations to bring about their establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with domestic air carriers.

(b) INVESTIGATION OF ALL COMPLAINTS REQUIRED.—Section 41705 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''In providing'';

(2) by striking ''carrier'' and inserting ''carrier, including any foreign air carrier doing business in the United States,''; and

(3) by adding at the end thereof the following:

''(b) EACH ACT CONSTITUTES SEPARATE OFFENSE.—Each separate act of discrimination prohibited by subsection (a) constitutes a separate violation of that subsection.

''(c) INVESTIGATION OF COMPLAINTS.—

''(1) IN GENERAL.—The Secretary or a person designated by the Secretary shall investigate each complaint of a violation of subsection (a).

''(2) PUBLICATION OF DATA.—The Secretary or a person designated by the Secretary shall publish disability-related complaint data in a manner comparable to other consumer complaint data.

''(3) EMPLOYMENT.—The Secretary is authorized to employ personnel necessary to enforce this section.

''(4) REVIEW AND REPORT.—The Secretary or a person designated by the Secretary shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability, and report annually to Congress on the results of such review.

''(5) TECHNICAL ASSISTANCE.—Not later than 180 days after enactment of the Air Transportation and Improvement Act, the Secretary shall—

''(A) implement a plan, in consultation with the Department of Justice, United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities of this section; and

''(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or duties under this section.''.

(c) INCREASED CIVIL PENALTIES.—Section 46301(a) is amended—

(1) by inserting ''41705,'' after ''41704,'' in paragraph (1)(A); and

(2) by adding at the end thereof the following:

''(7) VIOLATION OF SECTION 41705.—

''(A) CREDIT; VOUCHER; CIVIL PENALTY.— Unless an individual accepts a credit or voucher for the purchase of a ticket on an air carrier or any affiliated air carrier for a violation of subsection (a) in an amount (determined by the Secretary) of—

''(i) not less than $500 and not more than $2,500 for the first violation; or

''(ii) not less than $2,500 and not more than $5,000 for any subsequent violation,

then that air carrier is liable to the United States Government for a civil penalty, determined by the Secretary, of not more than 100 percent of the amount of the credit or voucher so determined.

''(B) REMEDY NOT EXCLUSIVE.—Nothing in subparagraph (A) precludes or affects the right of persons with disabilities to file private rights of action under section 41705 or to limit claims for compensatory or punitive damages asserted in such cases.

''(C) ATTORNEY'S FEES.—In addition to the penalty provided by subparagraph (A), an individual who—

''(i) brings a civil action against an air carrier to enforce this section; and

''(ii) who is awarded damages by the court in which the action is brought,

may be awarded reasonable attorneys' fees and costs of litigation reasonably incurred in bringing the action if the court deems it appropriate.''.

SEC. 408. CONVEYANCES OF UNITED STATES GOVERNMENT LAND.

(a) IN GENERAL.—Section 47125(a) is amended to read as follows:

''(a) CONVEYANCES TO PUBLIC AGENCIES.—

''(1) REQUEST FOR CONVEYANCE.—Except as provided in subsection (b) of this section, the Secretary of Transportation—

''(A) shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems; and

''(B) may request the head of such a department, agency, or instrumentality to convey a property interest in the land or airspace to such a public agency for a use that will complement, facilitate, or augment airport development, including the development of additional revenue from both aviation and nonaviation sources.

''(2) RESPONSE TO REQUEST FOR CERTAIN CONVEYANCES.—Within 4 months after receiving a request from the Secretary under paragraph (1), the head of the department, agency, or instrumentality shall—

''(A) decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

''(B) notify the Secretary of the decision; and

''(C) make the requested conveyance if—

''(i) the requested conveyance is consistent with the needs of the department, agency, or instrumentality;

''(ii) the Attorney General approves the conveyance; and

''(iii) the conveyance can be made without cost to the United States Government.

''(3) REVERSION.—Except as provided in subsection (b), a conveyance under this subsection may only be made on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance.''.

(b) RELEASE OF CERTAIN CONDITIONS.—Section 47125 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following after subsection (a):

''(b) RELEASE OF CERTAIN CONDITIONS.—The Secretary may grant a release from any term, condition, reservation, or restriction contained in any conveyance executed under this section, section 16 of the Federal Airport Act, section 23 of the Airport and Airway Development Act of 1970, or section 516 of the Airport and Airway Improvement Act of 1982, to facilitate the development of additional revenue from aeronautical and nonaeronautical sources if the Secretary—

''(1) determines that the property is no longer needed for aeronautical purposes;

''(2) determines that the property will be used solely to generate revenue for the public airport;

''(3) provides preliminary notice to the head of the department, agency, or instrumentality that conveyed the property interest at least 30 days before executing the release;

''(4) provides notice to the public of the requested release;

''(5) includes in the release a written justification for the release of the property; and

''(6) determines that release of the property will advance civil aviation in the United States.''.

(c) EFFECTIVE DATE.—Section 47125(b) of title 49, United States Code, as added by subsection (b) of this section, applies to property interests conveyed before, on, or after the date of enactment of this Act.

(d) IDITAROD AREA SCHOOL DISTRICT.—Notwithstanding any other provision of law (including section 47125 of title 49, United States Code, as amended by this section), the Administrator of the Federal Aviation Administration, or the Administrator of the General Services Administration, may convey to the Iditarod Area School District without reimbursement all right, title, and interest in 12 acres of property at Lake Minchumina, Alaska, identified by the Administrator of the Federal Aviation Administration, including the structures known as housing units 100 through 105 and as utility building 301.

SEC. 409. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from enforcement actions for violations of the Federal Aviation Regulations other than criminal or deliberate acts that are reported or discovered as a result of voluntary reporting programs, such as the Flight Operations Quality Assurance Program and the Aviation Safety Action Program.

SEC. 410. WIDE AREA AUGMENTATION SYSTEM.

(a) PLAN.—The Administrator of the Federal Aviation Administration shall identify or develop a plan to implement WAAS to provide

navigation and landing approach capabilities for civilian use and make a determination as to whether a backup system is necessary. Until the Administrator determines that WAAS is the sole means of navigation, the Administrator shall continue to develop and maintain a backup system.

(b) REPORT.—Within 6 months after the date of enactment of this Act, the Administrator shall—

(1) report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, on the plan developed under subsection (a);

(2) submit a timetable for implementing WAAS; and

(3) make a determination as to whether WAAS will ultimately become a primary or sole means of navigation and landing approach capabilities.

(c) WAAS DEFINED.—For purposes of this section, the term ''WAAS'' means wide area augmentation system.

(d) FUNDING AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

SEC. 411. REGULATION OF ALASKA GUIDE PILOTS.

(a) IN GENERAL.—Beginning on the date of the enactment of this Act, flight operations conducted by Alaska guide pilots shall be regulated under the general operating and flight rules contained in part 91 of title 14, Code of Federal Regulations.

(b) RULEMAKING PROCEEDING.—

(1) IN GENERAL.—The Administrator shall conduct a rulemaking proceeding and issue a final rule to modify the general operating and flight rules referred to in subsection (a) by establishing special rules applicable to the flight operations conducted by Alaska guide pilots.

(2) CONTENTS OF RULES.—A final rule issued by the Administrator under paragraph (1) shall require Alaska guide pilots—

(A) to operate aircraft inspected no less often than after 125 hours of flight time;

(B) to participate in an annual flight review, as described in section 61.56 of title 14, Code of Federal Regulations;

(C) to have at least 500 hours of flight time as a pilot;

(D) to have a commercial rating, as described in subpart F of part 61 of such title;

(E) to hold at least a second-class medical certificate, as described in subpart C of part 67 of such title;

(F) to hold a current letter of authorization issued by the Administrator; and

(G) to take such other actions as the Administrator determines necessary for safety.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) LETTER OF AUTHORIZATION.—The term ''letter of authorization'' means a letter issued by the Administrator once every 5 years to an Alaska guide pilot certifying that the pilot is in compliance with general operating and flight rules applicable to the pilot. In the case of a multi-pilot operation, at the election of the operating entity, a letter of authorization may be issued by the Administrator to the entity or to each Alaska guide pilot employed by the entity.

(2) ALASKA GUIDE PILOT.—The term ''Alaska guide pilot'' means a pilot who—

(A) conducts aircraft operations over or within the State of Alaska;

(B) operates single engine, fixed wing aircraft on floats, wheels, or skis, providing commercial hunting, fishing, or other guide services and related accommodations in the form of camps or lodges; and

(C) transports clients by such aircraft incidental to hunting, fishing, or other guide services, or uses air transport to enable guided clients to reach hunting or fishing locations.

SEC. 412. ALASKA RURAL AVIATION IMPROVEMENT.

(a) APPLICATION OF FAA REGULATIONS.—Section 40113 is amended by adding at the end thereof the following:

''(f) APPLICATION OF CERTAIN REGULATIONS TO ALASKA.—In amending title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.''.

(b) AVIATION CLOSED CIRCUIT TELEVISION.—The Administrator of the Federal Aviation Administration, in consultation with commercial and general aviation pilots, shall install closed circuit weather surveillance equipment at not fewer that 15 rural airports in Alaska and provide for the dissemination of information derived from such equipment to pilots for preflight planning purposes and en route purposes, including through the dissemination of such information to pilots by flight service stations. There are authorized to be appropriated $2,000,000 for the purposes of this subsection.

(c) MIKE-IN-HAND WEATHER OBSERVATION.—The Administrator of the Federal Aviation Administration and the Assistant Administrator of the National Weather Service, in consultation with the National Transportation Safety Board and the Governor of the State of Alaska, shall develop and implement a ''mike-in-hand'' weather observation program in Alaska under which Federal Aviation Administration employees, National Weather Service employees, other Federal or State employees sited at an airport, or persons contracted specifically for such purpose (including part-time contract employees who are not sited at such airport), will provide near-real time aviation weather information via radio and otherwise to pilots who request such information.

(d) RURAL IFR COMPLIANCE.—There are authorized to be appropriated $4,000,000 to the Administrator for runway lighting and weather reporting systems at remote airports in Alaska to implement the CAPSTONE project.

SEC. 413. HUMAN FACTORS PROGRAM.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end thereof the following:

''§ 44516. Human factors program

''(a) REPORT.—The Administrator of the Federal Aviation Administration shall report within 1 year after the date of enactment of the Air Transportation Improvement Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of the Administration's efforts to encourage the adoption and implementation of Advanced Qualification Programs for air carriers under this section.

''(b) HUMAN FACTORS TRAINING.—

''(1) AIR TRAFFIC CONTROLLERS.—The Administrator shall—

''(A) address the problems and concerns raised by the National Research Council in its report 'The Future of Air Traffic Control' on air traffic control automation; and

''(B) respond to the recommendations made by the National Research Council.

''(2) PILOTS AND FLIGHT CREWS.—The Administrator shall work with the aviation industry to develop specific training curricula to address critical safety problems, including problems of pilots—

''(A) in recovering from loss of control of the aircraft, including handling unusual attitudes and mechanical malfunctions;

''(B) in deviating from standard operating procedures, including inappropriate responses to emergencies and hazardous weather;

''(C) in awareness of altitude and location relative to terrain to prevent controlled flight into terrain; and

''(D) in landing and approaches, including nonprecision approaches and go-around procedures.

''(c) ACCIDENT INVESTIGATIONS.—The Administrator, working with the National Transportation Safety Board and representatives of the aviation industry, shall establish a process to assess human factors training as part of accident and incident investigations.

''(d) TEST PROGRAM.—The Administrator shall establish a test program in cooperation with United States air carriers to use model Jeppesen approach plates or other similar tools to improve nonprecision landing approaches for aircraft.

''(e) ADVANCED QUALIFICATION PROGRAM DEFINED.—For purposes of this section, the term 'advanced qualification program' means an alternative method for qualifying, training, certifying, and ensuring the competency of flight crews and other commercial aviation operations personnel subject to the training and evaluation requirements of Parts 121 and 135 of title 14, Code of Federal Regulations.''.

(b) AUTOMATION AND ASSOCIATED TRAINING.—The Administrator of the Federal Aviation Administration shall complete the Administration's updating of training practices for flight deck automation and associated training requirements within 12 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 445 is amended by adding at the end thereof the following:

''44516. Human factors program.''.

SEC. 414. INDEPENDENT VALIDATION OF FAA COSTS AND ALLOCATIONS.

(a) INDEPENDENT ASSESSMENT.—

(1) INITIATION.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall initiate the analyses described in paragraph (2). In conducting the analyses, the Inspector General shall ensure that the analyses are carried out by 1 or more entities that are independent of the Federal Aviation Administration. The Inspector General may use the staff and resources of the Inspector General or may contract with independent entities to conduct the analyses.

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—To ensure that the method for capturing and distributing the overall costs of the Federal Aviation Administration is appropriate and reasonable, the Inspector General shall conduct an assessment that includes the following:

(A)(i) Validation of Federal Aviation Administration cost input data, including an audit of the reliability of Federal Aviation Administration source documents and the integrity and reliability of the Federal Aviation Administration's data collection process.

(ii) An assessment of the reliability of the Federal Aviation Administration's system for tracking assets.

(iii) An assessment of the reasonableness of the Federal Aviation Administration's bases for establishing asset values and depreciation rates.

(iv) An assessment of the Federal Aviation Administration's system of internal controls for ensuring the consistency and reliability of reported data to begin immediately after full operational capability of the cost accounting system.

(B) A review and validation of the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs, and the methods used to identify direct costs associated with the services.

(C) An assessment and validation of the general cost pools used by the Federal Aviation Administration, including the rationale for and reliability of the bases on which the Federal Aviation Administration proposes to allocate costs of services to users and the integrity of the cost pools as well as any other factors considered important by the Inspector General. Appropriate

statistical tests shall be performed to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Federal Aviation Administration.

(b) DEADLINE.—The independent analyses described in this section shall be completed no later than 270 days after the contracts are awarded to the outside independent contractors. The Inspector General shall submit a final report combining the analyses done by its staff with those of the outside independent contractors to the Secretary of Transportation, the Administrator, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives. The final report shall be submitted by the Inspector General not later than 300 days after the award of contracts.

(c) FUNDING.—There are authorized to be appropriated such sums as may be necessary for the cost of the contracted audit services authorized by this section.

SEC. 415. APPLICATION OF FEDERAL PROCUREMENT POLICY ACT.

Section 348 of the Department of Transportation and Related Agencies Appropriations Act, 1996 (49 U.S.C. 40110 nt) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) CERTAIN PROVISIONS OF THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Notwithstanding subsection (b)(2), section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall apply to the new acquisition management system developed and implemented under subsection (a) with the following modifications:

''(1) Subsections (f) and (g) shall not apply.

''(2) Within 90 days after the date of enactment of the Air Transportation Improvement Act, the Administrator of the Federal Aviation Administration shall adopt definitions for the acquisition management system that are consistent with the purpose and intent of the Office of Federal Procurement Policy Act.

''(3) After the adoption of those definitions, the criminal, civil, and administrative remedies provided under the Office of Federal Procurement Policy Act apply to the acquisition management system.

''(4) In the administration of the acquisition management system, the Administrator may take adverse personnel action under section 27(e)(3)(A)(iv) of the Office of Federal Procurement Policy Act in accordance with the procedures contained in the Administration's personnel management system.''.

SEC. 416. REPORT ON MODERNIZATION OF OCEANIC ATC SYSTEM.

The Administrator of the Federal Aviation Administration shall report to the Congress on plans to modernize the oceanic air traffic control system, including a budget for the program, a determination of the requirements for modernization, and, if necessary, a proposal to fund the program.

SEC. 417. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.

Beginning in calendar year 2000, the Administrator of the Federal Aviation Administration shall report biannually to the Congress on the air transportation oversight system program announced by the Administration on May 13, 1998, in detail on the training of inspectors, the number of inspectors using the system, air carriers subject to the system, and the budget for the system.

SEC. 418. RECYCLING OF EIS.

Notwithstanding any other provision of law to the contrary, the Secretary of Transportation may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for a new airport construction project on the air operations area, that is substantially similar in nature to one previously constructed pursuant to the completed environmental assessment or environmental impact study in order to avoid unnecessary duplication of expense and effort, and any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study.

SEC. 419. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

(a) GENERAL RULE.—Chapter 421 is amended by adding at the end the following new subchapter:

''SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

''§ 42121. Protection of employees providing air safety information

''(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee of the air carrier or the contractor or subcontractor of an air carrier or otherwise discriminate against any such employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide or cause to be provided to the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

''(2) has filed, caused to be filed, or is about to file or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

''(3) testified or will testify in such a proceeding; or

''(4) assisted or participated or is about to assist or participate in such a proceeding.

''(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—

''(A) IN GENERAL.—In accordance with this paragraph, a person may file (or have a person file on behalf of that person) a complaint with the Secretary of Labor if that person believes that an air carrier or contractor or subcontractor of an air carrier discharged or otherwise discriminated against that person in violation of subsection (a).

''(B) REQUIREMENTS FOR FILING COMPLAINTS.—A complaint referred to in subparagraph (A) may be filed not later than 90 days after an alleged violation occurs. The complaint shall state the alleged violation.

''(C) NOTIFICATION.—Upon receipt of a complaint submitted under subparagraph (A), the Secretary of Labor shall notify the air carrier, contractor, or subcontractor named in the complaint and the Administrator of the Federal Aviation Administration of the—

''(i) filing of the complaint;

''(ii) allegations contained in the complaint;

''(iii) substance of evidence supporting the complaint; and

''(iv) opportunities that are afforded to the air carrier, contractor, or subcontractor under paragraph (2).

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—

''(i) INVESTIGATION.—Not later than 60 days after receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

''(ii) ORDER.—Except as provided in subparagraph (B), if the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the findings referred to in clause (i) with a preliminary order providing the relief prescribed under paragraph (3)(B).

''(iii) OBJECTIONS.—Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order and request a hearing on the record.

''(iv) EFFECT OF FILING.—The filing of objections under clause (iii) shall not operate to stay any reinstatement remedy contained in the preliminary order.

''(v) HEARINGS.—Hearings conducted pursuant to a request made under clause (iii) shall be conducted expeditiously and governed by the Federal Rules of Civil Procedure. If a hearing is not requested during the 30-day period prescribed in clause (iii), the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—

''(i) IN GENERAL.—Not later than 120 days after conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order that—

''(I) provides relief in accordance with this paragraph; or

''(II) denies the complaint.

''(ii) SETTLEMENT AGREEMENT.—At any time before issuance of a final order under this paragraph, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the air carrier, contractor, or subcontractor alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall

order the air carrier, contractor, or subcontractor that the Secretary of Labor determines to have committed the violation to—

''(i) take action to abate the violation;

''(ii) reinstate the complainant to the former position of the complainant and ensure the payment of compensation (including back pay) and the restoration of terms, conditions, and privileges associated with the employment; and

''(iii) provide compensatory damages to the complainant.

''(C) COSTS OF COMPLAINT.—If the Secretary of Labor issues a final order that provides for relief in accordance with this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the air carrier, contractor, or subcontractor named in the order an amount equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant (as determined by the Secretary of Labor) for, or in connection with, the bringing of the complaint that resulted in the issuance of the order.

''(4) FRIVOLOUS COMPLAINTS.—Rule 11 of the Federal Rules of Civil Procedure applies to any complaint brought under this section that the Secretary finds to be frivolous or to have been brought in bad faith.

''(5) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—

''(i) IN GENERAL.—Not later than 60 days after a final order is issued under paragraph (3), a person adversely affected or aggrieved by that order may obtain review of the order in the United States court of appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of that violation.

''(ii) REQUIREMENTS FOR JUDICIAL REVIEW.—A review conducted under this paragraph shall be conducted in accordance with chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order that is the subject of the review.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order referred to in subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(6) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—

''(A) IN GENERAL.—If an air carrier, contractor, or subcontractor named in an order issued under paragraph (3) fails to comply with the order, the Secretary of Labor may file a civil action in the United States district court for the district in which the violation occurred to enforce that order.

''(B) RELIEF.—In any action brought under this paragraph, the district court shall have jurisdiction to grant any appropriate form of relief, including injunctive relief and compensatory damages.

''(7) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order is issued under paragraph (3) may commence a civil action against the air carrier, contractor, or subcontractor named in the order to require compliance with the order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the order.

''(B) ATTORNEY FEES.—In issuing any final order under this paragraph, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party if the court determines that the awarding of those costs is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, or contractor or subcontractor of an air carrier who, acting without direction from the air carrier (or an agent, contractor, or subcontractor of the air carrier), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

''(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for an air carrier.''.

(b) INVESTIGATIONS AND ENFORCEMENT.—Section 347(b)(1) of Public Law 104–50 (49 U.S.C. 106, note) is amended by striking ''protection;'' and inserting ''protection, including the provisions for investigations and enforcement as provided in chapter 12 of title 5, United States Code;''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 421 is amended by adding at the end the following:

''SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

''42121. Protection of employees providing air safety information.''.

(d) CIVIL PENALTY.—Section 46301(a)(1)(A) is amended by striking ''subchapter II of chapter 421,'' and inserting ''subchapter II or III of chapter 421,''.

SEC. 420. IMPROVEMENTS TO AIR NAVIGATION FACILITIES.

Section 44502(a) is amended by adding at the end thereof the following:

''(5) The Administrator may improve real property leased for air navigation facilities without regard to the costs of the improvements in relation to the cost of the lease if—

''(A) the improvements primarily benefit the government;

''(B) are essential for mission accomplishment; and

''(C) the government's interest in the improvements is protected.''.

SEC. 421. DENIAL OF AIRPORT ACCESS TO CERTAIN AIR CARRIERS.

Section 47107 is amended by adding at the end thereof the following:

''(q) DENIAL OF ACCESS.—

''(1) EFFECT OF DENIAL.—If an owner or operator of an airport described in paragraph (2) denies access to an air carrier described in paragraph (3), that denial shall not be considered to be unreasonable or unjust discrimination or a violation of this section.

''(2) AIRPORTS TO WHICH SUBSECTION APPLIES.—An airport is described in this paragraph if it—

''(A) is designated as a reliever airport by the Administrator of the Federal Aviation Administration;

''(B) does not have an operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulations); and

''(C) is located within a 35-mile radius of an airport that has—

''(i) at least 0.05 percent of the total annual boardings in the United States; and

''(ii) current gate capacity to handle the demands of a public charter operation.

''(3) AIR CARRIERS DESCRIBED.—An air carrier is described in this paragraph if it conducts operations as a public charter under part 380 of title 14, Code of Federal Regulations (or any subsequent similar regulations) with aircraft that is designed to carry more than 9 passengers per flight.

''(4) DEFINITIONS.—In this subsection:

''(A) AIR CARRIER; AIR TRANSPORTATION; AIRCRAFT; AIRPORT.—The terms 'air carrier', 'air transportation', 'aircraft', and 'airport' have the meanings given those terms in section 40102 of this title.

''(B) PUBLIC CHARTER.—The term 'public charter' means charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights.''.

SEC. 422. TOURISM.

(a) FINDINGS.—Congress finds that—

(1) through an effective public-private partnership, Federal, State, and local governments and the travel and tourism industry can successfully market the United States as the premiere international tourist destination in the world;

(2) in 1997, the travel and tourism industry made a substantial contribution to the health of the Nation's economy, as follows:

(A) The industry is one of the Nation's largest employers, directly employing 7,000,000 Americans, throughout every region of the country, heavily concentrated among small businesses, and indirectly employing an additional 9,200,000 Americans, for a total of 16,200,000 jobs.

(B) The industry ranks as the first, second, or third largest employer in 32 States and the District of Columbia, generating a total tourism-related annual payroll of $127,900,000,000.

(C) The industry has become the Nation's third-largest retail sales industry, generating a total of $489,000,000,000 in total expenditures.

(D) The industry generated $71,700,000,000 in tax revenues for Federal, State, and local governments;

(3) the more than $98,000,000,000 spent by foreign visitors in the United States in 1997 generated a trade services surplus of more than $26,000,000,000;

(4) the private sector, States, and cities currently spend more than $1,000,000,000 annually to promote particular destinations within the United States to international visitors;

(5) because other nations are spending hundreds of millions of dollars annually to promote the visits of international tourists to their countries, the United States will miss a major marketing opportunity if it fails to aggressively compete for an increased share of international tourism expenditures as they continue to increase over the next decade;

(6) a well-funded, well-coordinated international marketing effort—combined with additional public and private sector efforts—would help small and large businesses, as well as State and local governments, share in the anticipated phenomenal growth of the international travel and tourism market in the 21st century;

(7) by making permanent the successful visa waiver pilot program, Congress can facilitate the increased flow of international visitors to the United States;

(8) Congress can increase the opportunities for attracting international visitors and enhancing their stay in the United States by—

(A) improving international signage at airports, seaports, land border crossings, highways, and bus, train, and other public transit stations in the United States;

(B) increasing the availability of multilingual tourist information; and

(C) creating a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency;

(9) by establishing a satellite system of accounting for travel and tourism, the Secretary of Commerce could provide Congress and the President with objective, thorough data that would help policymakers more accurately gauge the size and scope of the domestic travel and tourism industry and its significant impact on the health of the Nation's economy; and

(10) having established the United States National Tourism Organization under the United States National Tourism Organization Act of 1996 (22 U.S.C. 2141 et seq.) to increase the United States share of the international tourism market by developing a national travel and tourism strategy, Congress should support a long-term marketing effort and other important regulatory reform initiatives to promote increased travel to the United States for the benefit of every sector of the economy.

(b) PURPOSES.—The purposes of this section are to provide international visitor initiatives

and an international marketing program to enable the United States travel and tourism industry and every level of government to benefit from a successful effort to make the United States the premiere travel destination in the world.

(c) INTERNATIONAL VISITOR ASSISTANCE TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 9 months after the date of enactment of this Act, the Secretary of Commerce shall establish an Intergovernmental Task Force for International Visitor Assistance (hereafter in this subsection referred to as the ''Task Force'').

(2) DUTIES.—The Task Force shall examine—

(A) signage at facilities in the United States, including airports, seaports, land border crossings, highways, and bus, train, and other public transit stations, and shall identify existing inadequacies and suggest solutions for such inadequacies, such as the adoption of uniform standards on international signage for use throughout the United States in order to facilitate international visitors' travel in the United States;

(B) the availability of multilingual travel and tourism information and means of disseminating, at no or minimal cost to the Government, of such information; and

(C) facilitating the establishment of a toll-free, private-sector operated, telephone number, staffed by multilingual operators, to provide assistance to international tourists coping with an emergency.

(3) MEMBERSHIP.—The Task Force shall be composed of the following members:

(A) The Secretary of Commerce.

(B) The Secretary of State.

(C) The Secretary of Transportation.

(D) The Chair of the Board of Directors of the United States National Tourism Organization.

(E) Such other representatives of other Federal agencies and private-sector entities as may be determined to be appropriate to the mission of the Task Force by the Chairman.

(4) CHAIRMAN.—The Secretary of Commerce shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

(5) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Chairman of the Task Force shall submit to the President and to Congress a report on the results of the review, including proposed amendments to existing laws or regulations as may be appropriate to implement such recommendations.

(d) TRAVEL AND TOURISM INDUSTRY SATELLITE SYSTEM OF ACCOUNTING.—

(1) IN GENERAL.—The Secretary of Commerce shall complete, as soon as may be practicable, a satellite system of accounting for the travel and tourism industry.

(2) FUNDING.—To the extent any costs or expenditures are incurred under this subsection, they shall be covered to the extent funds are available to the Department of Commerce for such purpose.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary for the purpose of funding international promotional activities by the United States National Tourism Organization to help brand, position, and promote the United States as the premiere travel and tourism destination in the world.

(2) RESTRICTIONS ON USE OF FUNDS.—None of the funds appropriated under paragraph (1) may be used for purposes other than marketing, research, outreach, or any other activity designed to promote the United States as the premiere travel and tourism destination in the world, except that the general and administrative expenses of operating the United States National Tourism Organization shall be borne by the private sector through such means as the Board of Directors of the Organization shall determine.

(3) REPORT TO CONGRESS.—Not later than March 30 of each year in which funds are made available under subsection (a), the Secretary shall submit to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a detailed report setting forth—

(A) the manner in which appropriated funds were expended;

(B) changes in the United States market share of international tourism in general and as measured against specific countries and regions;

(C) an analysis of the impact of international tourism on the United States economy, including, as specifically as practicable, an analysis of the impact of expenditures made pursuant to this section;

(D) an analysis of the impact of international tourism on the United States trade balance and, as specifically as practicable, an analysis of the impact on the trade balance of expenditures made pursuant to this section; and

(E) an analysis of other relevant economic impacts as a result of expenditures made pursuant to this section.

SEC. 423. SENSE OF THE SENATE ON PROPERTY TAXES ON PUBLIC-USE AIRPORTS.

It is the sense of the Senate that—

(1) property taxes on public-use airports should be assessed fairly and equitably, regardless of the location of the owner of the airport; and

(2) the property tax recently assessed on the City of The Dalles, Oregon, as the owner and operator of the Columbia Gorge Regional/The Dalles Municipal Airport, located in the State of Washington, should be repealed.

SEC. 424. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

(a) APPLICABILITY OF MERIT SYSTEMS PROTECTION BOARD PROVISIONS.—Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon and ''and''; and

(3) by adding at the end thereof the following:

''(8) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board.''.

(b) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Section 347(c) of the Department of Transportation and Related Agencies Appropriations Act, 1996 is amended to read as follows:

''(c) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under subsection (a), an employee of the Federal Aviation Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996.''.

SEC. 425. AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) AUTHORITY.—

(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning March 1, 1999, and ending on September 30, 2002, sell aircraft and aircraft parts referred to in paragraph (2) to a person or entity that provides oil spill response services (including the application of oil dispersants by air) pursuant to an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(2) The aircraft and aircraft parts that may be sold under paragraph (1) are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

(A) excess to the needs of the Department; and

(B) acceptable for commercial sale.

(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

(1) shall have as their primary purpose usage for oil spill spotting, observation, and dispersant delivery and may not have any secondary purpose that would interfere with oil spill response efforts under an oil spill response plan;

(2) may not be flown outside of or removed from the United States except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, for immediate response efforts for an oil spill outside United States waters that has the potential to threaten United States waters, or for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Transportation.

(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Transportation certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air, and that the overall system to be employed by that person or entity for the delivery and application of oil spill dispersants has been sufficiently tested to ensure that the person or entity is capable of being included in an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(d) REGULATIONS.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Transportation and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value as determined by the Secretary of Defense, and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end-users in accordance with the conditions set forth in subsection (b) or pursuant to subsection (e); and

(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

(f) REPORT.—Not later than March 31, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) CONSTRUCTION.—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

(h) PROCEEDS FROM SALE.—The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts.

SEC 426. AIRCRAFT AND AVIATION COMPONENT REPAIR AND MAINTENANCE ADVISORY PANEL.

(a) ESTABLISHMENT OF PANEL.—The Administrator of the Federal Aviation Administration—

(1) shall establish an Aircraft Repair and Maintenance Advisory Panel to review issues related to the use and oversight of aircraft and aviation component repair and maintenance facilities located within, or outside of, the United States; and

(2) may seek the advice of the panel on any issue related to methods to improve the safety of domestic or foreign contract aircraft and aviation component repair facilities.

(b) MEMBERSHIP.—The panel shall consist of—

(1) 8 members, appointed by the Administrator as follows:

(A) 3 representatives of labor organizations representing aviation mechanics;

(B) 1 representative of cargo air carriers;

(C) 1 representative of passenger air carriers;

(D) 1 representative of aircraft and aviation component repair stations;

(E) 1 representative of aircraft manufacturers; and

(F) 1 representative of the aviation industry not described in the preceding subparagraphs;

(2) 1 representative from the Department of Transportation, designated by the Secretary of Transportation;

(3) 1 representative from the Department of State, designated by the Secretary of State; and

(4) 1 representative from the Federal Aviation Administration, designated by the Administrator.

(c) RESPONSIBILITIES.—The panel shall—

(1) determine how much aircraft and aviation component repair work and what type of aircraft and aviation component repair work is being performed by aircraft and aviation component repair stations located within, and outside of, the United States to better understand and analyze methods to improve the safety and oversight of such facilities; and

(2) provide advice and counsel to the Administrator with respect to aircraft and aviation component repair work performed by those stations, staffing needs, and any safety issues associated with that work.

(d) FAA TO REQUEST INFORMATION FROM FOREIGN AIRCRAFT REPAIR STATIONS.—

(1) COLLECTION OF INFORMATION.—The Administrator shall by regulation request aircraft and aviation component repair stations located outside the United States to submit such information as the Administrator may require in order to assess safety issues and enforcement actions with respect to the work performed at those stations on aircraft used by United States air carriers.

(2) DRUG AND ALCOHOL TESTING INFORMATION.—Included in the information the Administrator requests under paragraph (1) shall be information on the existence and administration of employee drug and alcohol testing programs in place at such stations, if applicable.

(3) DESCRIPTION OF WORK DONE.—Included in the information the Administrator requests under paragraph (1) shall be information on the amount and type of aircraft and aviation component repair work performed at those stations on aircraft registered in the United States.

(e) FAA TO REQUEST INFORMATION ABOUT DOMESTIC AIRCRAFT REPAIR STATIONS.—If the Administrator determines that information on the volume of the use of domestic aircraft and aviation component repair stations is needed in order to better utilize Federal Aviation Administration resources, the Administrator may—

(1) require United States air carriers to submit the information described in subsection (d) with respect to their use of contract and noncontract aircraft and aviation component repair facilities located in the United States; and

(2) obtain information from such stations about work performed for foreign air carriers.

(f) FAA TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Administrator shall make any information received under subsection (d) or (e) available to the public.

(g) TERMINATION.—The panel established under subsection (a) shall terminate on the earlier of—

(1) the date that is 2 years after the date of enactment of this Act; or

(2) December 31, 2000.

(h) ANNUAL REPORT TO CONGRESS.—The Administrator shall report annually to the Congress on the number and location of air agency certificates that were revoked, suspended, or not renewed during the preceding year.

(i) DEFINITIONS.—Any term used in this section that is defined in subtitle VII of title 49, United States Code, has the meaning given that term in that subtitle.

SEC. 427. AIRCRAFT SITUATIONAL DISPLAY DATA.

(a) IN GENERAL.—A memorandum of agreement between the Administrator of the Federal Aviation Administration and any person that directly obtains aircraft situational display data from the Administration shall require that—

(1) the person demonstrate to the satisfaction of the Administrator that such person is capable of selectively blocking the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and

(2) the person agree to block selectively the aircraft registration numbers of any aircraft owner or operator upon the Administration's request.

(b) EXISTING MEMORANDA TO BE CONFORMED.—The Administrator shall conform any memoranda of agreement, in effect on the date of enactment of this Act, between the Administration and a person under which that person obtains such data to incorporate the requirements of subsection (a) within 30 days after that date.

SEC. 428. ALLOCATION OF TRUST FUND FUNDING.

(a) DEFINITIONS.—In this section:

(1) AIRPORT AND AIRWAY TRUST FUND.—The term ''Airport and Airway Trust Fund'' means the trust fund established under section 9502 of the Internal Revenue Code of 1986.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(3) STATE.—The term ''State'' means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(4) STATE DOLLAR CONTRIBUTION TO THE AIRPORT AND AIRWAY TRUST FUND.—The term ''State dollar contribution to the Airport and Airway Trust Fund'', with respect to a State and fiscal year, means the amount of funds equal to the amounts transferred to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 that are equivalent to the taxes described in section 9502(b) of the Internal Revenue Code of 1986 that are collected in that State.

(b) REPORTING.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall report to the Secretary the amount equal to the amount of taxes collected in each State during the preceding fiscal year that were transferred to the Airport and Airway Trust Fund.

(2) REPORT BY SECRETARY.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to Congress a report that provides, for each State, for the preceding fiscal year—

(A) the State dollar contribution to the Airport and Airway Trust Fund; and

(B) the amount of funds (from funds made available under section 48103 of title 49, United States Code) that were made available to the State (including any political subdivision thereof) under chapter 471 of title 49, United States Code.

SEC. 429. TAOS PUEBLO AND BLUE LAKES WILDERNESS AREA DEMONSTRATION PROJECT.

Within 18 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall work with the Taos Pueblo to study the feasibility of conducting a demonstration project to require all aircraft that fly over Taos Pueblo and the Blue Lake Wilderness Area of Taos Pueblo, New Mexico, to maintain a mandatory minimum altitude of at least 5,000 feet above ground level.

SEC. 430. AIRLINE MARKETING DISCLOSURE.

(a) DEFINITIONS.—In this section:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in section 40102 of title 49, United States Code.

(b) FINAL REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate final regulations to provide for improved oral and written disclosure to each consumer of air transportation concerning the corporate name of the air carrier that provides the air transportation purchased by that consumer. In issuing the regulations issued under this subsection, the Secretary shall take into account the proposed regulations issued by the Secretary on January 17, 1995, published at page 3359, volume 60, Federal Register.

SEC. 431. COMPENSATION UNDER THE DEATH ON THE HIGH SEAS ACT.

(a) IN GENERAL.—Section 2 of the Death on the High Seas Act (46 U.S.C. App. 762) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The recovery''; and

(2) by adding at the end thereof the following:

''(b) COMMERCIAL AVIATION.—

''(1) IN GENERAL.—If the death was caused during commercial aviation, additional compensation for nonpecuniary damages for wrongful death of a decedent is recoverable in a total amount, for all beneficiaries of that decedent, that shall not exceed the greater of the pecuniary loss sustained or a sum total of $750,000 from all defendants for all claims. Punitive damages are not recoverable.

''(2) INFLATION ADJUSTMENT.—The $750,000 amount shall be adjusted, beginning in calendar year 2000 by the increase, if any, in the Consumer Price Index for all urban consumers for the prior year over the Consumer Price Index for all urban consumers for the calendar year 1998.

''(3) NONPECUNIARY DAMAGES.—For purposes of this subsection, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any death caused during commercial aviation occurring after July 16, 1996.

SEC. 432. FAA STUDY OF BREATHING HOODS.

The Administrator shall study whether breathing hoods currently available for use by flight crews when smoke is detected are adequate and report the results of that study to the Congress within 120 days after the date of enactment of this Act.

SEC. 433. FAA STUDY OF ALTERNATIVE POWER SOURCES FOR FLIGHT DATA RECORDERS AND COCKPIT VOICE RECORDERS.

The Administrator of the Federal Aviation Administration shall study the need for an alternative power source for on-board flight data

recorders and cockpit voice recorders and shall report the results of that study to the Congress within 120 days after the date of enactment of this Act. If, within that time, the Administrator determines, after consultation with the National Transportation Safety Board that the Board is preparing recommendations with respect to this subject matter and will issue those recommendations within a reasonable period of time, the Administrator shall report to the Congress the Administrator's comments on the Board's recommendations rather than conducting a separate study.

SEC. 434. PASSENGER FACILITY FEE LETTERS OF INTENT.

The Secretary of Transportation may not require an eligible agency (as defined in section 40117(a)(2) of title 49, United States Code), to impose a passenger facility fee (as defined in section 40117(a)(4) of that title) in order to obtain a letter of intent under section 47110 of that title.

SEC. 435. ELIMINATION OF HAZMAT ENFORCEMENT BACKLOG.

(a) FINDINGS.—The Congress makes the following findings:

(1) The transportation of hazardous materials continues to present a serious aviation safety problem which poses a potential threat to health and safety, and can result in evacuations, emergency landings, fires, injuries, and deaths.

(2) Although the Federal Aviation Administration budget for hazardous materials inspection increased $10,500,000 in fiscal year 1998, the General Accounting Office has reported that the backlog of hazardous materials enforcement cases has increased from 6 to 18 months.

(b) ELIMINATION OF HAZARDOUS MATERIALS ENFORCEMENT BACKLOG.—The Administrator of the Federal Aviation Administration shall—

(1) make the elimination of the backlog in hazardous materials enforcement cases a priority;

(2) seek to eliminate the backlog within 6 months after the date of enactment of this Act; and

(3) make every effort to ensure that inspection and enforcement of hazardous materials laws are carried out in a consistent manner among all geographic regions, and that appropriate fines and penalties are imposed in a timely manner for violations.

(c) INFORMATION REGARDING PROGRESS.—The Administrator shall provide information in oral or written form to the Committee on Commerce, Science, and Transportation, on a quarterly basis beginning 3 months after the date of enactment of this Act for a year, on plans to eliminate the backlog and enforcement activities undertaken to carry out subsection (b).

SEC. 436. FAA EVALUATION OF LONG-TERM CAPITAL LEASING.

Nothwithstanding any other provision of law to the contrary, the Administrator of the Federal Aviation Administration may establish a pilot program for fiscal years 2001 through 2004 to test and evaluate the benefits of long-term contracts for the leasing of aviation equipment and facilities. The Administrator shall establish criteria for the program. The Administrator may enter into no more than 10 leasing contracts under this section, each of which shall be for a period greater than 5 years, under which the equipment or facility operates. The contracts to be evaluated may include requirements related to oceanic and air traffic control, air-to-ground radio communications, and air traffic control tower construction.

SEC. 437. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 is amended to read as follows:

"§ 41706. Prohibitions against smoking on scheduled flights

"(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation (referred to in this subsection as the 'Secretary') shall require all air carriers and foreign air carriers to prohibit on and after October 1, 1999, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) LIMITATION ON APPLICABILITY.—

"(1) IN GENERAL.—If a foreign government objects to the application of subsection (b) on the basis that subsection provides for an extraterritorial application of the laws of the United States, the Secretary may waive the application of subsection (b) to a foreign air carrier licensed by that foreign government at such time as an alternative prohibition negotiated under paragraph (2) becomes effective and is enforced by the Secretary.

"(2) ALTERNATIVE PROHIBITION.—If, pursuant to paragraph (1), a foreign government objects to the prohibition under subsection (b), the Secretary shall enter into bilateral negotiations with the objecting foreign government to provide for an alternative smoking prohibition.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of enactment of this Act.

SEC. 438. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

Section 47118 is amended—

(1) by striking "12." in subsection (a) and inserting "15."; and

(2) by striking "5-fiscal-year periods" in subsection (d) and inserting "periods, each not to exceed 5 fiscal years,".

SEC. 439. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

"(ii) that occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of the default; or

"(II) the expiration of such 60-day period; and

"(iii) that occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

"(2) The equipment described in this paragraph—

"(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

"(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, that is to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

"(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

"(d) With respect to equipment first placed in service on or prior to October 22, 1994, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.

"(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.".

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

"(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

"(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor

under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of the order is cured before the expiration of such 60-day period;

''(ii) that occurs after the date of the order and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

''(3) The equipment described in this paragraph—

''(A) is—

''(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

''(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

SEC. 440. MONROE REGIONAL AIRPORT LAND CONVEYANCE.

The Secretary of Transportation may waive all terms contained in the 1949 deed of conveyance under which the United States conveyed certain property then constituting Selman Field, Louisiana, to the City of Monroe, Louisiana, subject to the following conditions:

(1) The city agrees that in conveying any interest in such property the city will receive an amount for such interest that is equal to the fair market value for such interest.

(2) The amount received by the city for such conveyance shall be used by the city—

(A) for the development, improvement, operation, or maintenance of a public airport; or

(B) for the development or improvement of the city's airport industrial park co-located with the Monroe Regional Airport to the extent that such development or improvement will result in an increase, over time, in the amount the industrial park will pay to the airport to an amount that is greater than the amount the city received for such conveyance.

SEC. 441. CINCINNATI-MUNICIPAL BLUE ASH AIRPORT.

To maintain the efficient utilization of airports in the high-growth Cincinnati local airport system, and to ensure that the Cincinnati-Municipal Blue Ash Airport continues to operate to relieve congestion at Cincinnati-Northern Kentucky International Airport and to provide greater access to the general aviation community beyond the expiration of the City of Cincinnati's grant obligations, the Secretary of Transportation may approve the sale of Cincinnati-Municipal Blue Ash Airport from the City of Cincinnati to the City of Blue Ash upon a finding that the City of Blue Ash meets all applicable requirements for sponsorship and if the City of Blue Ash agrees to continue to maintain and operate Blue Ash Airport, as generally contemplated and described within the Blue Ash Master Plan Update dated November 30, 1998, for a period of 20 years from the date existing grant assurance obligations of the City of Cincinnati expire.

SEC. 442. REPORT ON SPECIALTY METALS CONSORTIUM.

The Administrator of the Federal Aviation Administration may work with a consortium of domestic metal producers and aircraft engine manufacturers to improve the quality of turbine engine materials and to address melting technology enhancements. The Administrator shall report to the Congress within 6 months after entering into an agreement with any such consortium of such producers and manufacturers on the goals and efforts of the consortium.

SEC. 443. PAVEMENT CONDITION.

The Administrator of the Federal Aviation Administration may conduct a study on the extent of alkali silica reactivity-induced pavement distress in concrete runways, taxiways, and aprons for airports comprising the national air transportation system. If the Administrator conducts such a study, it shall include a determination based on in-the-field inspections followed by petrographic analysis or other similar techniques.

SEC. 444. INHERENTLY LOW-EMISSION AIRPORT VEHICLE PILOT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§ 47137. Inherently low-emission airport vehicle pilot program

''(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 public-use airports under which the sponsors of such airports may use funds made available under section 48103 for use at such airports to carry out inherently low-emission vehicle activities. Notwithstanding any other provision of this subchapter, inherently low-emission vehicle activities shall for purposes of the pilot program be treated as eligible for assistance under this subchapter.

''(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—

''(1) IN GENERAL.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(d)).

''(2) SHORTAGE OF CANDIDATES.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, then the Secretary may consider applications from public-use airports that are not located in such areas.

''(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

''(d) UNITED STATES GOVERNMENT'S SHARE.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under the pilot program shall be 50 percent.

''(e) MAXIMUM AMOUNT.—Not more than $2,000,000 may be expended under the pilot program at any single public-use airport.

''(f) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—Participants carrying out inherently low-emission vehicle activities under this pilot program may use no less than 10 percent of the amounts made available for expenditure at the airport under the pilot program to receive technical assistance in carrying out such activities.

''(2) ELIGIBLE CONSORTIUM.—To the maximum extent practicable, participants in the pilot program shall use an eligible consortium (as defined in section 5506 of this title) in the region of the airport to receive technical assistance described in paragraph (1).

''(3) PLANNING ASSISTANCE.—The administrator may provide $500,000 from funds made available under section 48103 to a multi-State, western regional technology consortium for the purposes of developing for dissemination prior to the commencement of the pilot program a comprehensive best practices planning guide that addresses appropriate technologies, environmental and economic impacts, and the role of planning and mitigation strategies.

''(g) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of the Air Transportation Improvement Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

''(1) an evaluation of the effectiveness of the pilot program;

''(2) an identification of other public-use airports that expressed an interest in participating in the pilot program; and

''(3) a description of the mechanisms used by the Secretary to ensure that the information and know-how gained by participants to the pilot program is transferred among the participants and to other interested parties, including other public-use airports.

''(h) INHERENTLY LOW-EMISSION VEHICLE ACTIVITY DEFINED.—In this section, the term 'inherently low-emission vehicle activity' means—

''(1) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of vehicles that are certified as inherently low-emission vehicles under title 40 of the Code of Federal Regulations, that—

''(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

''(B) are labeled in accordance with section 88.312–93(c) of such title; and

''(C) are located or primarily used at public-use airports;

''(2) the construction of infrastructure or modifications at public-use airports to enable the delivery of fuel and services necessary for the use of non-road vehicles that—

''(A) operate exclusively on compressed natural gas, liquefied natural gas, liquefied petroleum gas, electricity, hydrogen, or a blend at least 85 percent of which is methanol;

''(B) meet or exceed the standards set forth in section 86.1708–99 of title 40 of the Code of Federal Regulations, or the standards set forth in section 89.112(a) of such title, and are in compliance with the requirements of section 89.112(b) of such title; and

''(C) are located or primarily used at public-use airports;

''(3) the payment of that portion of the cost of acquiring such vehicles that exceeds the cost of acquiring other vehicles or engines that would be used for the same purpose; or

''(4) the acquisition of technological capital equipment to enable the delivery of fuel and services necessary for the use of vehicles described in paragraph (1).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

''47137. Inherently low-emission airport vehicle pilot program.''.

SEC. 445. CONVEYANCE OF AIRPORT PROPERTY TO AN INSTITUTION OF HIGHER EDUCATION IN OKLAHOMA.

(a) IN GENERAL.—Notwithstanding any other provision of law, including the Surplus Property Act of 1944 (58 Stat. 765, chapter 479; 50 U.S.C. App. 1622 et seq.), the Secretary of Transportation (or the appropriate Federal officer) may waive, without charge, any of the terms contained in any deed of conveyance described in subsection (b) that restrict the use of any land described in such a deed that, as of the date of enactment of this Act, is not being used for the operation of an airport or for air traffic. A waiver made under the preceding sentence shall be deemed to be consistent with the requirements of section 47153 of title 49, United States Code.

(b) DEED OF CONVEYANCE.—A deed of conveyance referred to in subsection (a) is a deed of conveyance issued by the United States before the date of enactment of this Act for the conveyance of lands to a public institution of higher education in Oklahoma.

(c) USE OF LANDS SUBJECT TO WAIVER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the lands subject to a waiver under subsection (a) shall not be subject to any term, condition, reservation, or restriction that would otherwise apply to that land as a result of the conveyance of that land by the United States to the institution of higher education.

(2) USE OF LANDS.—An institution of higher education that is issued a waiver under subsection (a) may use revenues derived from the use, operation, or disposal of that land only for weather-related and educational purposes that include benefits for aviation.

(d) GRANTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if an institution of higher education that is subject to a waiver under subsection (a) received financial assistance in the form of a grant from the Federal Aviation Administration or a predecessor agency before the date of enactment of this Act, then the Secretary of Transportation may waive the repayment of the outstanding amount of any grant that the institution of higher education would otherwise be required to pay.

(2) ELIGIBILITY TO RECEIVE SUBSEQUENT GRANTS.—Nothing in paragraph (1) shall affect the eligibility of an institution of higher education that is subject to that paragraph from receiving grants from the Secretary of Transportation under chapter 471 of title 49, United States Code, or under any other provision of law relating to financial assistance provided through the Federal Aviation Administration.

SEC. 446. AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.

Section 48101 is further amended by adding at the end the following:

''(f) AUTOMATED SURFACE OBSERVATION SYSTEM/AUTOMATED WEATHER OBSERVING SYSTEM UPGRADE.—Of the amounts appropriated under subsection (a) for fiscal years beginning after September 30, 2000, such sums as may be necessary for the implementation and use of upgrades to the current automated surface observation system/automated weather observing system, if the upgrade is successfully demonstrated.''.

SEC. 447. TERMINAL AUTOMATED RADAR DISPLAY AND INFORMATION SYSTEM.

The Administrator of the Federal Aviation Administration shall develop a national policy and related procedures concerning the Terminal Automated Radar Display and Information System and sequencing for Visual Flight Rule air traffic control towers.

SEC. 448. COST/BENEFIT ANALYSIS FOR RETROFIT OF 16G SEATS.

Before the Administrator of the Federal Aviation Administration issues a final rule requiring the air carriers to retrofit existing aircraft with 16G seats, the Administrator shall conduct, in consultation with the Inspector General of the Department of Transportation, a comprehensive analysis of the costs and benefits that would be associated with the issuance of such a final rule.

SEC. 449. RALEIGH COUNTY, WEST VIRGINIA, MEMORIAL AIRPORT.

The Secretary of Transportation may grant a release from any term or condition in a grant agreement for the development or improvement of the Raleigh County Memorial Airport, West Virginia, if the Secretary determines that the property to be released—

(1) does not exceed 400 acres; and

(2) is not needed for airport purposes.

SEC. 450. AIRPORT SAFETY NEEDS.

(a) IN GENERAL.—The Administrator shall conduct a study reviewing current and future airport safety needs that—

(1) focuses specifically on the mission of rescue personnel, rescue operations response time, and extinguishing equipment; and

(2) gives particular consideration to the need for different requirements for airports that are related to the size of the airport and the size of the community immediately surrounding the airport.

(b) REPORT TRANSMITTED TO CONGRESS; DEADLINE.—The Administrator shall transmit a report containing the Administrator's findings and recommendations to the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation and the Aviation Subcommittee of the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act.

(c) COST/BENEFIT ANALYSIS OF PROPOSED CHANGES.—If the Administrator recommends, on the basis of a study conducted under subsection (a), that part 139 of title 14, Code of Federal Regulations, should be revised to meet current and future airport safety needs, the Administrator shall include a cost-benefit analysis of any recommended changes in the report.

SEC. 451. FLIGHT TRAINING OF INTERNATIONAL STUDENTS.

The Federal Aviation Administration shall implement a bilateral aviation safety agreement for conversion of flight crew licenses between the government of the United States and the Joint Aviation Authority member governments.

SEC. 452. GRANT PARISH, LOUISIANA.

IN GENERAL.—The United States may release, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain land located in Grant Parish, Louisiana, identified as Tracts B, C, and D on the map entitled ''Plat of Restricted Properties/Former Pollock Army Airfield, Pollock, Louisiana'', dated August 1, 1996, to the extent such restrictions, conditions, and limitations are enforceable by the United States, but the United States shall retain the right of access to, and use of, that land for national defense purposes in time of war or national emergency.

(b) MINERAL RIGHTS.—Nothing in subsection (a) affects the ownership or disposition of oil, gas, or other mineral resources associated with land described in subsection (a).

SEC. 453. DESIGNATION OF GENERAL AVIATION AIRPORT.

Section 47118 of title 49, United States Code, is amended—

(1) in the second sentence of subsection (a), by striking ''12'' and inserting ''15''; and

(2) by adding at the end the following new subsection:

''(g) DESIGNATION OF GENERAL AVIATION AIRPORT.—Notwithstanding any other provision of this section, at least one of the airports designated under subsection (a) may be a general aviation airport that is a former military installation closed or realigned under a law described in subsection (a)(1).''.

SEC. 454. AIRLINE DEREGULATION STUDY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the Airline Deregulation Study Commission (in this section referred to as the ''Commission'').

(2) MEMBERSHIP.—

(A) COMPOSITION.—Subject to subparagraph (B), the Commission shall be composed of 15 members of whom—

(i) 5 shall be appointed by the President;

(ii) 5 shall be appointed by the President pro tempore of the Senate, 3 upon the recommendation of the Majority Leader, and 2 upon the recommendation of the Minority Leader of the Senate; and

(iii) 5 shall be appointed by the Speaker of the House of Representatives, 3 upon the Speaker's own initiative, and 2 upon the recommendation of the Minority Leader of the House of Representatives.

(B) MEMBERS FROM RURAL AREAS.—

(i) REQUIREMENT.—Of the individuals appointed to the Commission under subparagraph (A)—

(I) one of the individuals appointed under clause (i) of that subparagraph shall be an individual who resides in a rural area; and

(II) two of the individuals appointed under each of clauses (ii) and (iii) of that subparagraph shall be individuals who reside in a rural area.

(ii) GEOGRAPHIC DISTRIBUTION.—The appointment of individuals under subparagraph (A) pursuant to the requirement in clause (i) of this subparagraph shall, to the maximum extent practicable, be made so as to ensure that a variety of geographic areas of the country are represented in the membership of the Commission.

(C) DATE.—The appointments of the members of the Commission shall be made not later than 60 days after the date of the enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(5) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The Commission shall select a Chairman and Vice Chairperson from among its members.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY.—

(A) DEFINITIONS.—In this subsection, the terms 'air carrier' and 'air transportation' have the meanings given those terms in section 40102(a).

(B) CONTENTS.—The Commission shall conduct a thorough study of the impacts of deregulation of the airline industry of the United States on—

(i) the affordability, accessibility, availability, and quality of air transportation, particularly in small-sized and medium-sized communities;

(ii) economic development and job creation, particularly in areas that are underserved by air carriers;

(iii) the economic viability of small-sized airports; and

(iv) the long-term configuration of the United States passenger air transportation system.

(C) MEASUREMENT FACTORS.—In carrying out the study under this subsection, the Commission shall develop measurement factors to analyze the quality of passenger air transportation service provided by air carriers by identifying the factors that are generally associated with quality passenger air transportation service.

(D) BUSINESS AND LEISURE TRAVEL.—In conducting measurements for an analysis of the affordability of air travel, to the extent practicable, the Commission shall provide for appropriate control groups and comparisons with respect to business and leisure travel.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit an interim report to the President and Congress, and not later than 18 months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress. Each such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission shall consult with the Comptroller General of the United States and may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) COMMISSION PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) TERMINATION OF COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits its report under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $950,000 for fiscal year 2000 to the Commission to carry out this section.

(2) AVAILABILITY.—Any sums appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 455. NONDISCRIMINATION IN THE USE OF PRIVATE AIRPORTS.

Chapter 401 of subtitle VII of title 49, United States Code, is amended by inserting the following new section after section 40122:

"§ 40123. Nondiscrimination in the use of private airports

''(a) IN GENERAL.—Notwithstanding any other provision of law, no State, county, city or municipal government may prohibit the use or full enjoyment of a private airport within its jurisdiction by any person on the basis of that person's race, creed, color, national origin, sex, or ancestry.''.

SEC. 456. CURFEW.

Notwithstanding any other provision of law, any exemptions granted to air carriers under this Act may not result in additional operations at Ronald Reagan Washington National Airport between the hours of 10:00 p.m. and 7:00 a.m.

SEC. 457. FEDERAL AVIATION ADMINISTRATION YEAR 2000 TECHNOLOGY SAFETY ENFORCEMENT ACT OF 1999.

(a) SHORT TITLE.—This section be cited as the ''Federal Aviation Administration Year 2000 Technology Safety Enforcement Act of 1999''.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

(2) AIR CARRIER OPERATING CERTIFICATE.—The term ''air carrier operating certificate'' has the same meaning as in section 44705 of title 49, United States Code.

(3) YEAR 2000 TECHNOLOGY PROBLEM.—The term ''year 2000 technology problem'' means a failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data failures—

(A) to deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

(B) to recognize or accurately process any specific date in 1999, 2000, or 2001; or

(C) to accurately account for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

(c) RESPONSE TO REQUEST FOR INFORMATION.—Any person who has an air carrier operating certificate shall respond on or before November 1, 1999, to any request for information from the Administrator regarding readiness of that person with regard to the year 2000 technology problem as it relates to the compliance of that person with applicable safety regulations.

(d) FAILURE TO RESPOND.—

(1) SURRENDER OF CERTIFICATE.—After November 1, 1999, the Administrator shall make a decision on the record whether to compel any air carrier that has not responded on or before November 1, 1999, to a request for information regarding the readiness of that air carrier with regard to the year 2000 technology problem as it relates to the air carrier's compliance with applicable safety regulations to surrender its operating certificate to the Administrator.

(2) REINSTATEMENT OF CERTIFICATE.—The Administrator may return an air carrier operating certificate that has been surrendered under this subsection upon—

(A) a finding by the Administrator that a person whose certificate has been surrendered has provided sufficient information to demonstrate compliance with applicable safety regulations as it relates to the year 2000 technology problem; or

(B) upon receipt of a certification, signed under penalty or perjury, by the chief operating officer of the air carrier, that such air carrier has addressed the year 2000 technology problem so that the air carrier will be in full compliance with applicable safety regulations on and after January 1, 2000.

SEC. 458. EXPRESSING THE SENSE OF THE SENATE CONCERNING AIR TRAFFIC OVER NORTHERN DELAWARE.

(a) DEFINITION.—The term ''Brandywine Intercept'' means the point over Brandywine Hundred in northern Delaware that pilots use for guidance and maintenance of safe operation from other aircraft and over which most aircraft pass on their East Operations approach to Philadelphia International Airport.

(b) FINDINGS.—Congress makes the following findings:

(1) The Brandywine Hundred area of New Castle County, Delaware serves as a major approach causeway to Philadelphia International Airport's East Operations runways.

(2) The standard of altitude over the Brandywine Intercept is 3,000 feet, with airport scatter charts indicating that within a given hour of consistent weather and visibility aircraft fly over the Brandywine Hundred at anywhere from 2,500 to 4,000 feet.

(3) Lower airplane altitudes result in increased ground noise.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Transportation should—

(1) include northern Delaware in any study of aircraft noise conducted under part 150 of title 14 of the Code of Federal Regulations required under the National Environmental Policy Act of 1969 for the redesign of the airspace surrounding Philadelphia International Airport;

(2) study the feasibility, consistent with safety, of placing the approach causeway for Philadelphia International Airport's East Operations over the Delaware River (instead of Brandywine Hundred); and

(3) study the feasibility of increasing the standard altitude over the Brandywine Intercept from 3,000 feet to 4,000 feet.

SEC. 459. STUDY OF OUTDOOR AIR, VENTILATION, AND RECIRCULATION AIR REQUIREMENTS FOR PASSENGER CABINS IN COMMERCIAL AIRCRAFT.

(a) DEFINITIONS.—In this section, the terms ''air carrier'' and ''aircraft'' have the meanings given those terms in section 40102 of title 49, United States Code.

(b) IN GENERAL.—As soon as practicable after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the ''Secretary'') shall conduct a study

of sources of air supply contaminants of aircraft and air carriers to develop alternatives to replace engine and auxiliary power unit bleed air as a source of air supply. To carry out this paragraph, the Secretary may enter into an agreement with the Director of the National Academy of Sciences for the National Research Council to conduct the study.

(c) AVAILABILITY OF INFORMATION.—Upon completion of the study under this section in one year's time, the Administrator of the Federal Aviation Administration shall make available the results of the study to air carriers through the Aviation Consumer Protection Division of the Office of the General Counsel for the Department of Transportation.

SEC. 460. GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT GRANT FUND.

(a) DEFINITION.—Title 49, United States Code, is amended by adding the following new subparagraph at the end of section 47144(d)(1):

''(C) GENERAL AVIATION METROPOLITAN ACCESS AND RELIEVER AIRPORT.—'General Aviation Metropolitan Access and Reliever Airport' means a Reliever Airport which has annual operations in excess of 75,000 operations, a runway with a minimum usable landing distance of 5,000 feet, a precision instrument landing procedure, a minimum of 150 based aircraft, and where the adjacent Air Carrier Airport exceeds 20,000 hours of annual delays as determined by the Federal Aviation Administration.''.

(b) APPORTIONMENT.—Title 49, United States Code, section 47114(d), is amended by adding at the end:

''(4) The Secretary shall apportion an additional 5 percent of the amount subject to apportionment for each fiscal year to States that include a General Aviation Metropolitan Access and Reliever Airport equal to the percentage of the apportionment equal to the percentage of the number of operations of the State's eligible General Aviation Metropolitan Access and Reliever Airports compared to the total operations of all General Aviation Metropolitan Access and Reliever Airports.''.

SEC. 461. STUDY ON AIRPORT NOISE.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit a study on airport noise to Congress, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(b) AREAS OF STUDY.—The study shall examine—

(1) the selection of noise measurement methodologies used by the Administrator of the Federal Aviation Administration;

(2) the threshold of noise at which health impacts are felt;

(3) the effectiveness of noise abatement programs at airports around the United States; and

(4) the impacts of aircraft noise on students and educators in schools.

(c) RECOMMENDATIONS.—The study shall include specific recommendations to the Secretary of Transportation and the Administrator of the Federal Aviation Administration concerning new measures that should be implemented to mitigate the impact of aircraft noise on communities surrounding airports.

SEC. 462. SENSE OF THE SENATE CONCERNING EAS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) essential air service (EAS) to smaller communities remains vital, and that the difficulties encountered by many communities in retaining EAS warrant increased Federal attention;

(2) the FAA should give full consideration to ending the local match required by Dickinson, North Dakota.

(b) REPORT.—Not later than 60 days after enactment of this legislation, the Secretary of Transportation shall report to the Congress with an analysis of the difficulties faced by many smaller communities in retaining EAS and a plan to facilitate easier EAS retention. This report shall give particular attention to communities in North Dakota.

SEC. 463. AIRLINE QUALITY SERVICE REPORTS.

The Secretary of Transportation shall modify the Airline Service Quality Performance reports required under part 234 of title 14, Code of Federal Regulations, to more fully disclose to the public the nature and source of delays and cancellations experienced by air travelers. Such modifications shall include a requirement that air carriers report delays and cancellations in categories which reflect the reasons for such delays and cancellations. Such categories and reporting shall be determined by the Administrator in consultation with representatives of airline passengers, air carriers, and airport operators, and shall include delays and cancellations caused by air traffic control.

SEC. 464. PREVENTION OF FRAUDS INVOLVING AIRCRAFT OR SPACE VEHICLE PARTS IN INTERSTATE OR FOREIGN COMMERCE.

(a) SHORT TITLE.—This section may be cited as the ''Aircraft Safety Act of 1999''.

(b) DEFINITIONS.—Section 31 of title 18, United States Code, is amended by striking all after the section heading and inserting the following:

''(a) IN GENERAL.—

''(1) AIRCRAFT.—The term 'aircraft' means a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

''(2) AVIATION QUALITY.—The term 'aviation quality', with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, repaired, overhauled, rebuilt, reconditioned, or restored in conformity with applicable standards specified by law (including a regulation) or contract.

''(3) DESTRUCTIVE SUBSTANCE.—The term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

''(4) IN FLIGHT.—The term 'in flight' means—

''(A) any time from the moment at which all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation; and

''(B) in the case of a forced landing, until competent authorities take over the responsibility for the aircraft and the persons and property on board.

''(5) IN SERVICE.—The term 'in service' means—

''(A) any time from the beginning of preflight preparation of an aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; and

''(B) in any event includes the entire period during which the aircraft is in flight.

''(6) MOTOR VEHICLE.—The term 'motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

''(7) PART.—The term 'part' means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

''(8) SPACE VEHICLE.—The term 'space vehicle' means a man-made device, either manned or unmanned, designed for operation beyond the Earth's atmosphere.

''(9) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(10) USED FOR COMMERCIAL PURPOSES.—The term 'used for commercial purposes' means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

''(b) TERMS DEFINED IN OTHER LAW.—In this chapter, the terms 'aircraft engine', 'air navigation facility', 'appliance', 'civil aircraft', 'foreign air commerce', 'interstate air commerce', 'landing area', 'overseas air commerce', 'propeller', 'spare part', and 'special aircraft jurisdiction of the United States' have the meanings given those terms in sections 40102(a) and 46501 of title 49.''.

(c) FRAUD.—

(1) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''§ 38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce

''(a) OFFENSES.—A person that, in or affecting interstate or foreign commerce, knowingly—

''(1)(A) falsifies or conceals a material fact;

''(B) makes any materially fraudulent representation; or

''(C) makes or uses any materially false writing, entry, certification, document, record, data plate, label, or electronic communication;

concerning any aircraft or space vehicle part;

''(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or space vehicle any aircraft or space vehicle part using or by means of a fraudulent representation, document, record, certification, depiction, data plate, label, or electronic communication; or

''(3) attempts or conspires to commit an offense described in paragraph (1) or (2);

shall be punished as provided in subsection (b).

''(b) PENALTIES.—The punishment for an offense under subsection (a) is as follows:

''(1) AVIATION QUALITY.—If the offense relates to the aviation quality of a part and the part is installed in an aircraft or space vehicle, a fine of not more than $500,000, imprisonment for not more than 25 years, or both.

''(2) FAILURE TO OPERATE AS REPRESENTED.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the probable cause of a malfunction or failure that results in serious bodily injury (as defined in section 1365) to or the death of any person, a fine of not more than $1,000,000, imprisonment for any term of years or life, or both.

''(3) ORGANIZATIONS.—If the offense is committed by an organization, a fine of not more than $25,000,000.

''(4) OTHER CIRCUMSTANCES.—In the case of an offense not described in paragraph (1), (2), or (3), a fine under this title, imprisonment for not more than 15 years, or both.

''(c) CIVIL REMEDIES.—

''(1) IN GENERAL.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including—

''(A) ordering a person CONVICTED OF AN OFFENSE UNDER THIS SECTION to divest any interest, direct or indirect, in any enterprise, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks;

''(B) imposing reasonable restrictions on the future activities or investments of any such person, including prohibiting engagement in the same type of endeavor as used to commit the offense; and

''(C) ordering dissolution or reorganization of any enterprise, making due provisions for the rights and interests of innocent persons.

''(2) RESTRAINING ORDERS AND PROHIBITION.—Pending final determination of a proceeding brought under this section, the court may enter such restraining orders or prohibitions, or take such other actions (including the acceptance of satisfactory performance bonds) as the court deems proper.

''(3) ESTOPPEL.—A final judgment rendered in favor of the United States in any criminal proceeding brought under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

''(d) CRIMINAL FORFEITURE.—

''(1) IN GENERAL.—The court, in imposing sentence on any person convicted of an offense under this section, shall order, in addition to any other sentence and irrespective of any provision of State law, that the person forfeit to the United States—

''(A) any property constituting, or derived from, any proceeds that the person obtained, directly or indirectly, as a result of the offense; and

''(B) any property used, or intended to be used in any manner, to commit or facilitate the commission of the offense.

''(2) APPLICATION OF OTHER LAW.—The forfeiture of property under this section, including any seizure and disposition of the property, and any proceedings relating to the property, shall be governed by section 413 of the Comprehensive Drug Abuse and Prevention Act of 1970 (21 U.S.C. 853) (not including subsection (d) of that section).

''(e) CONSTRUCTION WITH OTHER LAW.—This section does not preempt or displace any other remedy, civil or criminal, provided by Federal or State law for the fraudulent importation, sale, trade, installation, or introduction into commerce of an aircraft or space vehicle part.

''(f) TERRITORIAL SCOPE.—This section applies to conduct occurring inside or outside the United States.

''(g) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—

''(1) AUTHORIZATION.—

''(A) SUBPOENAS.—In any investigation relating to any act or activity involving an offense under this section, the Attorney General may issue in writing and cause to be served a subpoena—

''(i) requiring the production of any record (including any book, paper, document, electronic medium, or other object or tangible thing) that may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care or custody of or control over; and

''(ii) requiring a custodian of a record to give testimony concerning the production and authentication of the record.

''(B) CONTENTS.—A subpoena under subparagraph (A) shall—

''(i) describe the object required to be produced; and

''(ii) prescribe a return date within a reasonable period of time within which the object can be assembled and produced.

''(C) LIMITATION.—The production of a record shall not be required under this section at any place more than 500 miles from the place at which the subpoena for the production of the record is served.

''(D) WITNESS FEES.—A witness summoned under this section shall be paid the same fees and mileage as are paid witnesses in courts of the United States.

''(b) SERVICE.—

''(1) IN GENERAL.—A subpoena issued under subsection (a) may be served by any person who is at least 18 years of age and is designated in the subpoena to serve the subpoena.

''(2) NATURAL PERSONS.—Service of a subpoena issued under subsection (a) on a natural person may be made by personal delivery of the subpoena to the person.

''(3) CORPORATIONS AND OTHER ORGANIZATIONS.—Service of a subpoena issued under subsection (a) on a domestic or foreign corporation or on a partnership or other unincorporated association that is subject to suit under a common name may be made by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process for the corporation, partnership, or association.

''(4) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered or a true copy of such an affidavit shall be proof of service.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—In the case of a failure to comply with a subpoena issued under subsection (a), the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which the subpoenaed person carries on business or may be found, to compel compliance with the subpoena.

''(2) ORDERS.—The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce a record or to give testimony concerning the production and authentication of a record.

''(3) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

''(4) PROCESS.—All process in a case under this subsection may be served in any judicial district in which the subpoenaed person may be found.

''(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person (including any officer, agent, or employee of a person) that receives a subpoena under this section, who complies in good faith with the subpoena and produces a record or material sought by a subpoena under this section, shall not be liable in any court of any State or the United States to any customer or other person for the production or for nondisclosure of the production to the customer.''.

(2) CONFORMING AMENDMENTS.—

(A) CHAPTER ANALYSIS.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''38. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.''.

(B) WIRE AND ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting ''section 38 (relating to aircraft parts fraud),'' after ''section 32 (relating to destruction of aircraft or aircraft facilities),''.

SEC. 465. PRESERVATION OF ESSENTIAL AIR SERVICE AT DOMINATED HUB AIRPORTS.

(a) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end thereof the following:

''§ 41743. Preservation of basic essential air service at dominated hub airports

''(a) IN GENERAL.—If the Secretary of Transportation determines that extraordinary circumstances jeopardize the reliable and competitive performance of essential air service under this subchapter from a subsidized essential air service community to and from an essential airport facility, then the Secretary may require the air carrier that has more than 50 percent of the total annual enplanements at the essential airport facility to take action to enable an air carrier to provide reliable and competitive essential air service to that community. Action required by the Secretary under this subsection may include interline agreements, ground services, subleasing of gates, and the provision of any other service or facility necessary for the performance of satisfactory essential air service to that community.

''(b) ESSENTIAL AIRPORT FACILITY DEFINED.—In this section, the term 'essential airport facility' means a large hub airport (as defined in section 41731) in the contiguous 48 States at which 1 air carrier has more than 50 percent of the total annual enplanements at that airport.''.

SEC. 466. AVAILABILITY OF FUNDS FOR GEORGIA'S REGIONAL AIRPORT ENHANCEMENT PROGRAM.

Of the amounts made available to the Secretary of Transportation for the fiscal year 2000 under section 48103 of title 49, United States Code, funds may be available for Georgia's regional airport enhancement program for the acquisition of land.

TITLE V—AVIATION COMPETITION PROMOTION

SEC. 501. PURPOSE.

The purpose of this title is to facilitate, through a 4-year pilot program, incentives and projects that will help up to 40 communities or consortia of communities to improve their access to the essential airport facilities of the national air transportation system through public-private partnerships and to identify and establish ways to overcome the unique policy, economic, geographic, and marketplace factors that may inhibit the availability of quality, affordable air service to small communities.

SEC. 502. ESTABLISHMENT OF SMALL COMMUNITY AVIATION DEVELOPMENT PROGRAM.

Section 102 is amended by adding at the end thereof the following:

''(g) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a 4-year pilot aviation development program to be administered by a program director designated by the Secretary.

''(2) FUNCTIONS.—The program director shall—

''(A) function as a facilitator between small communities and air carriers;

''(B) carry out section 41743 of this title;

''(C) carry out the airline service restoration program under sections 41744, 41745, and 41746 of this title;

''(D) ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

''(E) work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

''(F) provide policy recommendations to the Secretary and the Congress that will ensure that small communities have access to quality, affordable air transportation services.

''(3) REPORTS.—The program director shall provide an annual report to the Secretary and the Congress beginning in 2000 that—

''(A) analyzes the availability of air transportation services in small communities, including, but not limited to, an assessment of the air fares charged for air transportation services in small communities compared to air fares charged for air transportation services in larger metropolitan areas and an assessment of the levels of service, measured by types of aircraft used, the availability of seats, and scheduling of flights, provided to small communities;

''(B) identifies the policy, economic, geographic and marketplace factors that inhibit the availability of quality, affordable air transportation services to small communities; and

''(C) provides policy recommendations to address the policy, economic, geographic, and marketplace factors inhibiting the availability of quality, affordable air transportation services to small communities.''.

SEC. 503. COMMUNITY-CARRIER AIR SERVICE PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end thereof the following:

''§ 41743. Air service program for small communities

''(a) COMMUNITIES PROGRAM.—Under advisory guidelines prescribed by the Secretary of Transportation, a small community or a consortia of small communities or a State may develop an assessment of its air service requirements, in such form as the program director designated by the Secretary under section 102(g) may require, and submit the assessment and service proposal to the program director.

''(b) SELECTION OF PARTICIPANTS.—In selecting community programs for participation in the communities program under subsection (a), the

program director shall apply criteria, including geographical diversity and the presentation of unique circumstances, that will demonstrate the feasibility of the program. For purposes of this subsection, the application of geographical diversity criteria means criteria that—

''(1) will promote the development of a national air transportation system; and

''(2) will involve the participation of communities in all regions of the country.

''(c) CARRIERS PROGRAM.—The program director shall invite part 121 air carriers and regional/commuter carriers (as such terms are defined in section 41715(d) of this title) to offer service proposals in response to, or in conjunction with, community aircraft service assessments submitted to the office under subsection (a). A service proposal under this paragraph shall include—

''(1) an assessment of potential daily passenger traffic, revenues, and costs necessary for the carrier to offer the service;

''(2) a forecast of the minimum percentage of that traffic the carrier would require the community to garner in order for the carrier to start up and maintain the service; and

''(3) the costs and benefits of providing jet service by regional or other jet aircraft.

''(d) PROGRAM SUPPORT FUNCTION.—The program director shall work with small communities and air carriers, taking into account their proposals and needs, to facilitate the initiation of service. The program director—

''(1) may work with communities to develop innovative means and incentives for the initiation of service;

''(2) may obligate funds authorized under section 504 of the Air Transportation Improvement Act to carry out this section;

''(3) shall continue to work with both the carriers and the communities to develop a combination of community incentives and carrier service levels that—

''(A) are acceptable to communities and carriers; and

''(B) do not conflict with other Federal or State programs to facilitate air transportation to the communities;

''(4) designate an airport in the program as an Air Service Development Zone and work with the community on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies;

''(5) take such other action under this chapter as may be appropriate.

''(e) LIMITATIONS.—

''(1) COMMUNITY SUPPORT.—The program director may not provide financial assistance under subsection (c)(2) to any community unless the program director determines that—

''(A) a public-private partnership exists at the community level to carry out the community's proposal;

''(B) the community will make a substantial financial contribution that is appropriate for that community's resources, but of not less than 25 percent of the cost of the project in any event;

''(C) the community has established an open process for soliciting air service proposals; and

''(D) the community will accord similar benefits to air carriers that are similarly situated.

''(2) AMOUNT.—The program director may not obligate more than $80,000,000 of the amounts authorized under 504 of the Air Transportation Improvement Act over the 4 years of the program.

''(3) NUMBER OF PARTICIPANTS.—The program established under subsection (a) shall not involve more than 40 communities or consortia of communities.

''(f) REPORT.—The program director shall report through the Secretary to the Congress annually on the progress made under this section during the preceding year in expanding commercial aviation service to smaller communities.

''§ 41744. Pilot program project authority

''(a) IN GENERAL.—The program director designated by the Secretary of Transportation under section 102(g)(1) shall establish a 4-year pilot program—

''(1) to assist communities and States with inadequate access to the national transportation system to improve their access to that system; and

''(2) to facilitate better air service link-ups to support the improved access.

''(b) PROJECT AUTHORITY.—Under the pilot program established pursuant to subsection (a), the program director may—

''(1) out of amounts authorized under section 504 of the Air Transportation Improvement Act, provide financial assistance by way of grants to small communities or consortia of small communities under section 41743 of up to $500,000 per year; and

''(2) take such other action as may be appropriate.

''(c) OTHER ACTION.—Under the pilot program established pursuant to subsection (a), the program director may facilitate service by—

''(1) working with airports and air carriers to ensure that appropriate facilities are made available at essential airports;

''(2) collecting data on air carrier service to small communities; and

''(3) providing policy recommendations to the Secretary to stimulate air service and competition to small communities.

''(d) ADDITIONAL ACTION.—Under the pilot program established pursuant to subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers serving large hub airports (as defined in section 41731(a)(3)) to facilitate joint fare arrangements consistent with normal industry practice.

''§ 41745. Assistance to communities for service

''(a) IN GENERAL.—Financial assistance provided under section 41743 during any fiscal year as part of the pilot program established under section 41744(a) shall be implemented for not more than—

''(1) 4 communities within any State at any given time; and

''(2) 40 communities in the entire program at any time.

For purposes of this subsection, a consortium of communities shall be treated as a single community.

''(b) ELIGIBILITY.—In order to participate in a pilot project under this subchapter, a State, community, or group of communities shall apply to the Secretary in such form and at such time, and shall supply such information, as the Secretary may require, and shall demonstrate to the satisfaction of the Secretary that—

''(1) the applicant has an identifiable need for access, or improved access, to the national air transportation system that would benefit the public;

''(2) the pilot project will provide material benefits to a broad section of the travelling public, businesses, educational institutions, and other enterprises whose access to the national air transportation system is limited;

''(3) the pilot project will not impede competition; and

''(4) the applicant has established, or will establish, public-private partnerships in connection with the pilot project to facilitate service to the public.

''(c) COORDINATION WITH OTHER PROVISIONS OF SUBCHAPTER.—The Secretary shall carry out the 4-year pilot program authorized by this subchapter in such a manner as to complement action taken under the other provisions of this subchapter. To the extent the Secretary determines to be appropriate, the Secretary may adopt criteria for implementation of the 4-year pilot program that are the same as, or similar to, the criteria developed under the preceding sections of this subchapter for determining which airports are eligible under those sections. The Secretary shall also, to the extent possible, provide incentives where no direct, viable, and feasible alternative service exists, taking into account geographical diversity and appropriate market definitions.

''(d) MAXIMIZATION OF PARTICIPATION.—The Secretary shall structure the program established pursuant to section 41744(a) in a way designed to—

''(1) permit the participation of the maximum feasible number of communities and States over a 4-year period by limiting the number of years of participation or otherwise; and

''(2) obtain the greatest possible leverage from the financial resources available to the Secretary and the applicant by—

''(A) progressively decreasing, on a project-by-project basis, any Federal financial incentives provided under this chapter over the 4-year period; and

''(B) terminating as early as feasible Federal financial incentives for any project determined by the Secretary after its implementation to be—

''(i) viable without further support under this subchapter; or

''(ii) failing to meet the purposes of this chapter or criteria established by the Secretary under the pilot program.

''(e) SUCCESS BONUS.—If Federal financial incentives to a community are terminated under subsection (d)(2)(B) because of the success of the program in that community, then that community may receive a one-time incentive grant to ensure the continued success of that program.

''(f) PROGRAM TO TERMINATE IN 4 YEARS.—No new financial assistance may be provided under this subchapter for any fiscal year beginning more than 4 years after the date of enactment of the Air Transportation Improvement Act.

''§ 41746. Additional authority

''In carrying out this chapter, the Secretary—

''(1) may provide assistance to States and communities in the design and application phase of any project under this chapter, and oversee the implementation of any such project;

''(2) may assist States and communities in putting together projects under this chapter to utilize private sector resources, other Federal resources, or a combination of public and private resources;

''(3) may accord priority to service by jet aircraft;

''(4) take such action as may be necessary to ensure that financial resources, facilities, and administrative arrangements made under this chapter are used to carry out the purposes of title V of the Air Transportation Improvement Act; and

''(5) shall work with the Federal Aviation Administration on airport and air traffic control needs of communities in the program.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for subchapter II of chapter 417 is amended by inserting after the item relating to section 41742 the following:

''41743. Air service program for small communities.
''41744. Pilot program project authority.
''41745. Assistance to communities for service.
''41746. Additional authority.''.

(c) WAIVER OF LOCAL CONTRIBUTION.—Section 41736(b) is amended by inserting after paragraph (4) the following:

''Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.''.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $80,000,000 to carry out sections 41743 through 41746 of title 49, United States Code, for the 4 fiscal-year period beginning with fiscal year 2000.

SEC. 505. MARKETING PRACTICES.

Section 41712 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''On''; and

(2) by adding at the end thereof the following:

''(b) MARKETING PRACTICES THAT ADVERSELY AFFECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—Within 180 days after the date of enactment of the Air Transportation Improvement Act, the Secretary shall review the marketing practices of air carriers that may inhibit the availability of quality, affordable air transportation services to small- and medium-sized communities, including—

''(1) marketing arrangements between airlines and travel agents;

''(2) code-sharing partnerships;

''(3) computer reservation system displays;

''(4) gate arrangements at airports;

''(5) exclusive dealing arrangements; and

''(6) any other marketing practice that may have the same effect.

''(c) REGULATIONS.—If the Secretary finds, after conducting the review required by subsection (b), that marketing practices inhibit the availability of such service to such communities, then, after public notice and an opportunity for comment, the Secretary may promulgate regulations that address the problem, or take other appropriate action. Nothing in this section expands the authority or jurisdiction of the Secretary to promulgate regulations under the Federal Aviation Act or under any other Act.''.

SEC. 506. CHANGES IN, AND PHASE-OUT OF, SLOT RULES.

(a) RULES THAT APPLY TO ALL SLOT EXEMPTION REQUESTS.—

(1) PROMPT CONSIDERATION OF REQUESTS.—Section 41714(i) is amended to read as follows:

''(i) 45-DAY APPLICATION PROCESS.—

''(1) REQUEST FOR SLOT EXEMPTIONS.—Any slot exemption request filed with the Secretary under this section, section 41717, or 41719 shall include—

''(A) the names of the airports to be served;

''(B) the times requested; and

''(C) such additional information as the Secretary may require.

''(2) ACTION ON REQUEST; FAILURE TO ACT.—Within 45 days after a slot exemption request under this section, section 41717, or section 41719 is received by the Secretary, the Secretary shall—

''(A) approve the request if the Secretary determines that the requirements of the section under which the request is made are met;

''(B) return the request to the applicant for additional information; or

''(C) deny the request and state the reasons for its denial.

''(3) 45-DAY PERIOD TOLLED FOR TIMELY REQUEST FOR MORE INFORMATION.—If the Secretary returns the request for additional information during the first 10 days after the request is filed, then the 45-day period shall be tolled until the date on which the additional information is filed with the Secretary.

''(4) FAILURE TO DETERMINE DEEMED APPROVAL.—If the Secretary neither approves the request under paragraph (2)(A) nor denies the request under subparagraph (2)(C) within the 45-day period beginning on the date it is received, excepting any days during which the 45-day period is tolled under paragraph (3), then the request is deemed to have been approved on the 46th day after it was filed with the Secretary.''.

(2) EXEMPTIONS MAY NOT BE BOUGHT OR SOLD.—Section 41714 is further amended by adding at the end the following:

''(j) EXEMPTIONS MAY NOT BE BOUGHT OR SOLD.—No exemption from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, granted under this section, section 41717, or section 41719 may be bought or sold by the carrier to which it is granted.''.

(3) EQUAL TREATMENT OF AFFILIATED CARRIERS.—Section 41714, as amended by paragraph (2), is further amended by adding at the end thereof the following:

''(k) AFFILIATED CARRIERS.—For purposes of this section, section 41717, 41718, and 41719, the Secretary shall treat all commuter air carriers that have cooperative agreements, including code-share agreements, with other air carriers equally for determining eligibility for the application of any provision of those sections regardless of the form of the corporate relationship between the commuter air carrier and the other air carrier.''.

(4) NEW ENTRANT SLOTS.—Section 41714(c) is amended—

(A) by striking ''(1) IN GENERAL.—'';

(B) by striking ''and the circumstances to be exceptional,''; and

(C) by striking paragraph (2).

(5) LIMITED INCUMBENT; REGIONAL JET.—Section 40102 is amended by—

(A) inserting after paragraph (28) the following:

''(28A) The term 'limited incumbent air carrier' has the meaning given that term in subpart S of part 93 of title 14, Code of Federal Regulations, except that '20' shall be substituted for '12' in sections 93.213(a)(5), 93.223(c)(3), and 93.225(h) as such sections were in effect on August 1, 1998.''; and

(B) inserting after paragraph (37) the following:

''(37A) The term 'regional jet' means a passenger, turbofan-powered aircraft carrying not fewer than 30 and not more than 50 passengers.''.

(b) PHASE-OUT OF SLOT RULES.—Chapter 417 is amended—

(1) by redesignating sections 41715 and 41716 as sections 41720 and 41721; and

(2) by inserting after section 41714 the following:

''§ 41715. Phase-out of slot rules at certain airports

''(a) TERMINATION.—The rules contained in subparts S and K of part 93, title 14, Code of Federal Regulations, shall not apply after December 31, 2006, at LaGuardia Airport or John F. Kennedy International Airport.

''(b) FAA SAFETY AUTHORITY NOT COMPROMISED.—Nothing in subsection (a) affects the Federal Aviation Administration's authority for safety and the movement of air traffic.

(c) PRESERVATION OF EXISTING SERVICE.—Chapter 417, as amended by subsection (b), is amended by inserting after section 41715 the following:

''§ 41716. Preservation of certain existing slot-related air service

''An air carrier that provides air transportation of passengers from a high density airport (other than Ronald Reagan Washington National Airport) to a small hub airport or nonhub airport, or to an airport that is smaller than a small hub or nonhub airport, on or before the date of enactment of the Air Transportation Improvement Act pursuant to an exemption from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), or where slots were issued to an airline conditioned on a specific airport being served, may not terminate air transportation service for that route for a period of 2 years (with respect to service from LaGuardia Airport or John F. Kennedy International Airport), or 4 years (with respect to service from Chicago O'Hare International Airport), after the date on which those requirements cease to apply to that high density airport unless—

''(1) before October 1, 1999, the Secretary received a written air service termination notice for that route; or

''(2) after September 30, 1999, the air carrier submits an air service termination notice under section 41720 for that route and the Secretary determines that the carrier suffered excessive losses, including substantial losses on operations on that route during the calendar quarters immediately preceding submission of the notice.''.

(d) SPECIAL RULES AFFECTING LAGUARDIA AIRPORT AND JOHN F. KENNEDY INTERNATIONAL AIRPORT.—Chapter 417, as amended by subsection (c), is amended by inserting after section 41716 the following:

''§ 41717. Interim slot rules at New York airports

''(a) IN GENERAL.—The Secretary of Transportation may, by order, grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports) with respect to a regional jet aircraft providing air transportation between LaGuardia Airport or John F. Kennedy International Airport and a small hub or nonhub airport—

''(1) if the operator of the regional jet aircraft was not providing such air transportation during the week of June 15, 1999; or

''(2) if the level of air transportation to be provided between such airports by the operator of the regional jet aircraft during any week will exceed the level of air transportation provided by such operator between such airports during the week of June 15, 1999.''.

(e) SPECIAL RULES AFFECTING CHICAGO O'HARE INTERNATIONAL AIRPORT.—

(1) IN GENERAL.—Subchapter I of chapter 417, as amended by subsection (d), is amended by inserting after section 41717 the following:

''§ 41718. Special Rules for Chicago O'Hare International Airport

''(a) IN GENERAL.—The Secretary of Transportation shall grant 30 slot exemptions over a 3-year period beginning on the date of enactment of the Air Transportation Improvement Act at Chicago O'Hare International Airport.

''(b) EQUIPMENT AND SERVICE REQUIREMENTS.—

''(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

''(2) SERVICE PROVIDED.—Of the exemptions granted under subsection (a)—

''(A) 18 shall be used only for service to underserved markets, of which no fewer than 6 shall be designated as commuter slot exemptions; and

''(B) 12 shall be air carrier slot exemptions.

''(c) PROCEDURAL REQUIREMENTS.—Before granting exemptions under subsection (a), the Secretary shall—

''(1) conduct an environmental review, taking noise into account, and determine that the granting of the exemptions will not cause a significant increase in noise;

''(2) determine whether capacity is available and can be used safely and, if the Secretary so determines then so certify;

''(3) give 30 days notice to the public through publication in the Federal Register of the Secretary's intent to grant the exemptions; and

''(4) consult with appropriate officers of the State and local government on any related noise and environmental issues.

''(d) UNDERSERVED MARKET DEFINED.—In this section, the term 'service to underserved markets' means passenger air transportation service to an airport that is a nonhub airport or a small hub airport (as defined in paragraphs (4) and (5), respectively, of section 41731(a)).''.

(2) 3-YEAR REPORT.—The Secretary shall study and submit a report 3 years after the first exemption granted under section 41718(a) of title 49, United States Code, is first used on the impact of the additional slots on the safety, environment, noise, access to underserved markets, and competition at Chicago O'Hare International Airport.

(f) SPECIAL RULES AFFECTING REAGAN WASHINGTON NATIONAL AIRPORT.—

(1) IN GENERAL.—Chapter 417, as amended by subsection (e), is amended by inserting after section 41718 the following:

''§ 41719. Special Rules for Ronald Reagan Washington National Airport

''(a) BEYOND-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on select routes between Ronald Reagan Washington National Airport and domestic hub airports and exemptions from the requirements of subparts K and S of part 93, Code of Federal Regulations, if the Secretary finds that the exemptions will—

''(1) provide air transportation service with domestic network benefits in areas beyond the perimeter described in that section;

''(2) increase competition by new entrant air carriers or in multiple markets;

''(3) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of this title; and

''(4) not result in meaningfully increased travel delays.

''(b) WITHIN-PERIMETER EXEMPTIONS.—The Secretary shall by order grant exemptions from the requirements of sections 49104(a)(5), 49111(e), and 41714 of this title and subparts K and S of part 93 of title 14, Code of Federal Regulations, to air carriers for service to airports that were designated as medium-hub or smaller airports in the Federal Aviation Administration's Primary Airport Enplanement Activity Summary for Calendar Year 1997 within the perimeter established for civil aircraft operations at Ronald Reagan Washington National Airport under section 49109. The Secretary shall develop criteria for distributing slot exemptions for flights within the perimeter to such airports under this paragraph in a manner that promotes air transportation—

''(1) by new entrant and limited incumbent air carriers;

''(2) to communities without existing service to Ronald Reagan Washington National Airport;

''(3) to small communities; or

''(4) that will provide competitive service on a monopoly nonstop route to Ronald Reagan Washington National Airport.

''(c) LIMITATIONS.—

''(1) STAGE 3 AIRCRAFT REQUIRED.—An exemption may not be granted under this section with respect to any aircraft that is not a Stage 3 aircraft (as defined by the Secretary).

''(2) GENERAL EXEMPTIONS.—The exemptions granted under subsections (a) and (b) may not increase the number of operations at Ronald Reagan Washington National Airport in any 1-hour period during the hours between 7:00 a.m. and 9:59 p.m. by more than 2 operations.

''(3) ADDITIONAL EXEMPTIONS.—The Secretary shall grant exemptions under subsections (a) and (b) that—

''(A) will result in 12 additional daily air carrier slot exemptions at such airport for long-haul service beyond the perimeter;

''(B) will result in 12 additional daily air carrier slot exemptions at such airport for service within the perimeter; and

''(C) will not result in additional daily slot exemptions for service to any within-the-perimeter airport that was designated as a large-hub airport in the Federal Aviation Administration's Primary Airport Enplanement Activity Summary for Calendar Year 1997.

''(4) ASSESSMENT OF SAFETY, NOISE AND ENVIRONMENTAL IMPACTS.—The Secretary shall assess the impact of granting exemptions, including the impacts of the additional slots and flights at Ronald Reagan Washington National Airport provided under subsections (a) and (b) on safety, noise levels and the environment within 90 days of the date of the enactment of the Air Transportation Improvement Act. The environmental assessment shall be carried out in accordance with parts 1500–1508 of title 40, Code of Federal Regulations. Such environmental assessment shall include a public meeting.

''(5) APPLICABILITY WITH EXEMPTION 5133.—Nothing in this section affects Exemption No. 5133, as from time-to-time amended and extended.''.

(2) OVERRIDE OF MWAA RESTRICTION.—Section 49104(a)(5) is amended by adding at the end thereof the following:

''(D) Subparagraph (C) does not apply to any increase in the number of instrument flight rule takeoffs and landings necessary to implement exemptions granted by the Secretary under section 41719.''.

(3) MWAA NOISE-RELATED GRANT ASSURANCES.—

(A) IN GENERAL.—In addition to any condition for approval of an airport development project that is the subject of a grant application submitted to the Secretary of Transportation under chapter 471 of title 49, United States Code, by the Metropolitan Washington Airports Authority, the Authority shall be required to submit a written assurance that, for each such grant made to the Authority for fiscal year 2000 or any subsequent fiscal year—

(i) the Authority will make available for that fiscal year funds for noise compatibility planning and programs that are eligible to receive funding under chapter 471 of title 49, United States Code, in an amount not less than 10 percent of the aggregate annual amount of financial assistance provided to the Authority by the Secretary as grants under chapter 471 of title 49, United States Code; and

(ii) the Authority will not divert funds from a high priority safety project in order to make funds available for noise compatibility planning and programs.

(B) WAIVER.—The Secretary of Transportation may waive the requirements of subparagraph (A) for any fiscal year for which the Secretary determines that the Metropolitan Washington Airports Authority is in full compliance with applicable airport noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(C) SUNSET.—This paragraph shall cease to be in effect 5 years after the date of enactment of this Act if on that date the Secretary of Transportation certifies that the Metropolitan Washington Airports Authority has achieved full compliance with applicable noise compatibility planning and program requirements under part 150 of title 14, Code of Federal Regulations.

(4) REPORT.—Within 1 year after the date of enactment of this Act, and biannually thereafter, the Secretary shall certify to the United States Senate Committee on Commerce, Science, and Transportation, the United States House of Representatives Committee on Transportation and Infrastructure, the Governments of Maryland, Virginia, and West Virginia and the metropolitan planning organization for Washington, D.C., that noise standards, air traffic congestion, airport-related vehicular congestion, safety standards, and adequate air service to communities served by small hub airports and medium hub airports within the perimeter described in section 49109 of title 49, United States Code, have been maintained at appropriate levels.

(g) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 47117(e) is amended by adding at the end the following:

''(3) The Secretary shall give priority in making grants under paragraph (1)(A) to applications for airport noise compatibility planning and programs at and around—

''(A) LaGuardia Airport;

''(B) John F. Kennedy International Airport; and

''(C) Ronald Reagan Washington National Airport.''.

(h) STUDY OF COMMUNITY NOISE LEVELS AROUND HIGH DENSITY AIRPORTS.—The Secretary of Transportation shall study community noise levels in the areas surrounding the 4 high-density airports after the 100 percent Stage 3 fleet requirements are in place, and compare those levels with the levels in such areas before 1991.

(i) CONFORMING AMENDMENTS.—

(1) Section 49111 is amended by striking subsection (e).

(2) The chapter analysis for subchapter I of chapter 417 is amended—

(A) by redesignating the items relating to sections 41715 and 41716 as relating to sections 41720 and 41721, respectively; and

(B) by inserting after the item relating to section 41714 the following:

''41715. Phase-out of slot rules at certain airports.
''41716. Preservation of certain existing slot-related air service.
''41717. Interim slot rules at New York airports.
''41718. Interim application of slot rules at Chicago O'Hare. International Airport.
''41719. Special Rules for Ronald Reagan Washington National Airport.''.

(3) CONFORMING AMENDMENT.—Section 41714(a)(3) is amended by adding at the end thereof the following: ''The 132 slot cap under this paragraph does not apply to exemptions or slots made available under section 41718.''.

SEC. 507. CONSUMER NOTIFICATION OF E-TICKET EXPIRATION DATES.

Section 41712, as amended by section 505 of this Act, is amended by adding at the end thereof the following:

''(d) E-TICKET EXPIRATION NOTICE.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier utilizing electronically transmitted tickets to fail to notify the purchaser of such a ticket of its expiration date, if any.''.

SEC. 508. REGIONAL AIR SERVICE INCENTIVE OPTIONS.

(a) PURPOSE.—The purpose of this section is to provide the Congress with an analysis of means to improve service by jet aircraft to underserved markets by authorizing a review of different programs of Federal financial assistance, including loan guarantees like those that would have been provided for by section 2 of S. 1353, 105th Congress, as introduced, to commuter air carriers that would purchase regional jet aircraft for use in serving those markets.

(b) STUDY.—The Secretary of Transportation shall study the efficacy of a program of Federal loan guarantees for the purchase of regional jets by commuter air carriers. The Secretary shall include in the study a review of options for funding, including alternatives to Federal funding. In the study, the Secretary shall analyze—

(1) the need for such a program;

(2) its potential benefit to small communities;

(3) the trade implications of such a program;

(4) market implications of such a program for the sale of regional jets;

(5) the types of markets that would benefit the most from such a program;

(6) the competitive implications of such a program; and

(7) the cost of such a program.

(c) REPORT.—The Secretary shall submit a report of the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 24 months after the date of enactment of this Act.

SEC. 509. REQUIREMENT TO ENHANCE COMPETITIVENESS OF SLOT EXEMPTIONS FOR REGIONAL JET AIR SERVICE AND NEW ENTRANT AIR CARRIERS AT CERTAIN HIGH DENSITY TRAFFIC AIRPORTS.

(a) IN GENERAL.—Subchapter I of chapter 417, as amended by sections 507 and 508, is amended by adding at the end thereof the following:

''§ 41721. Requirement to enhance competitiveness of slot exemptions for nonstop regional jet air service and new entrant air carriers at certain airports

''In granting slot exemptions for nonstop regional jet air service and new entrant air carriers under this subchapter to John F. Kennedy

International Airport, and La Guardia Airport, the Secretary of Transportation shall require the Federal Aviation Administration to provide commercially reasonable times to takeoffs and landings of air flights conducted under those exemptions.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 417, as amended by this title, is amended by adding at the end thereof the following:

''41721. Requirement to enhance competitiveness of slot exemptions for nonstop regional jet air service and new entrant air carriers at certain airports.''.

TITLE VI—NATIONAL PARKS OVERFLIGHTS

SEC. 601. FINDINGS.

The Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on the public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on its consensus work product; and

(6) this title reflects the recommendations made by that Group.

SEC. 602. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) IN GENERAL.—Chapter 401, as amended by section 301 of this Act, is amended by adding at the end the following:

''§ 40126. Overflights of national parks

''(a) IN GENERAL.—

''(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands except—

''(A) in accordance with this section;

''(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

''(C) in accordance with any effective air tour management plan for that park or those tribal lands.

''(2) APPLICATION FOR OPERATING AUTHORITY.—

''(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over that park or those tribal lands.

''(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever a commercial air tour management plan limits the number of commercial air tour flights over a national park area during a specified time frame, the Administrator, in cooperation with the Director, shall authorize commercial air tour operators to provide such service. The authorization shall specify such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the national park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour services over the national park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

''(i) the safety record of the company or pilots;

''(ii) any quiet aircraft technology proposed for use;

''(iii) the experience in commercial air tour operations over other national parks or scenic areas;

''(iv) the financial capability of the company;

''(v) any training programs for pilots; and

''(vi) responsiveness to any criteria developed by the National Park Service or the affected national park.

''(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour service over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such companies, and the financial viability of each commercial air tour operation.

''(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator shall, in cooperation with the Director, develop an air tour management plan in accordance with subsection (b) and implement such plan.

''(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS.—The Administrator shall act on any such application and issue a decision on the application not later than 24 months after it is received or amended.

''(3) EXCEPTION.—Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the Federal Aviation Regulations (14 CFR 91.1 et seq.) if—

''(A) such activity is permitted under part 119 (14 CFR 119.1(e)(2));

''(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the flight operations will be conducted; and

''(C) the total number of operations under this exception is limited to not more than 5 flights in any 30-day period over a particular park.

''(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (c), an existing commercial air tour operator shall, not later than 90 days after the date of enactment of the Air Transportation Improvement Act, apply for operating authority under part 119, 121, or 135 of the Federal Aviation Regulations (14 CFR Pt. 119, 121, or 135). A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands.

''(b) AIR TOUR MANAGEMENT PLANS.—

''(1) ESTABLISHMENT OF ATMPS.—

''(A) IN GENERAL.—The Administrator shall, in cooperation with the Director, establish an air tour management plan for any national park or tribal land for which such a plan is not already in effect whenever a person applies for authority to operate a commercial air tour over the park. The development of the air tour management plan is to be a cooperative undertaking between the Federal Aviation Administration and the National Park Service. The air tour management plan shall be developed by means of a public process, and the agencies shall develop information and analysis that explains the conclusions that the agencies make in the application of the respective criteria. Such explanations shall be included in the Record of Decision and may be subject to judicial review.

''(B) OBJECTIVE.—The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources and visitor experiences and tribal lands.

''(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement, and the Record of Decision for the air tour management plan.

''(3) CONTENTS.—An air tour management plan for a national park—

''(A) may prohibit commercial air tour operations in whole or in part;

''(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

''(C) shall apply to all commercial air tours within ½ mile outside the boundary of a national park;

''(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;

''(E) shall provide for the initial allocation of opportunities to conduct commercial air tours if the plan includes a limitation on the number of commercial air tour flights for any time period; and

''(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E).

''(4) PROCEDURE.—In establishing a commercial air tour management plan for a national park, the Administrator and the Director shall—

''(A) initiate at least one public meeting with interested parties to develop a commercial air tour management plan for the park;

''(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

''(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with those regulations, the Federal Aviation Administration is the lead agency and the National Park Service is a cooperating agency); and

''(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in commercial air tour operations over a national park or tribal lands, as a cooperating agency under the regulations referred to in paragraph (4)(C).

''(5) AMENDMENTS.—Any amendment of an air tour management plan shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

''(c) INTERIM OPERATING AUTHORITY.—

''(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this paragraph to a commercial air tour operator for a national park or tribal lands for which the operator is an existing commercial air tour operator.

''(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

''(A) shall provide annual authorization only for the greater of—

''(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of the Air Transportation Improvement Act; or

''(ii) the average number of flights per 12-month period used by the operator to provide

such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

''(B) may not provide for an increase in the number of operations conducted during any time period by the commercial air tour operator to which it is granted unless the increase is agreed to by the Administrator and the Director;

''(C) shall be published in the Federal Register to provide notice and opportunity for comment;

''(D) may be revoked by the Administrator for cause;

''(E) shall terminate 180 days after the date on which an air tour management plan is established for that park or those tribal lands; and

''(F) shall—

''(i) promote protection of national park resources, visitor experiences, and tribal lands;

''(ii) promote safe operations of the commercial air tour;

''(iii) promote the adoption of quiet technology, as appropriate; and

''(iv) allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

''(3) NEW ENTRANT AIR TOUR OPERATORS.—

''(A) IN GENERAL.—The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tours over that national park or those tribal lands.

''(B) SAFETY LIMITATION.—The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at that park or on tribal lands, or the Director determines that it would create a noise problem at that park or on tribal lands.

''(C) ATMP LIMITATION.—The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of enactment of the Air Transportation Improvement Act.

''(d) DEFINITIONS.—In this section, the following definitions apply:

''(1) COMMERCIAL AIR TOUR.—The term 'commercial air tour' means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour, include, but are not limited to—

''(A) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

''(B) whether a narrative was provided that referred to areas or points of interest on the surface;

''(C) the area of operation;

''(D) the frequency of flights;

''(E) the route of flight;

''(F) the inclusion of sightseeing flights as part of any travel arrangement package; or

''(G) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface.

''(2) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour.

''(3) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tours over a national park at any time during the 12-month period ending on the date of enactment of the Air Transportation Improvement Act.

''(4) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—

''(A) applies for operating authority as a commercial air tour operator for a national park; and

''(B) has not engaged in the business of providing commercial air tours over that national park or those tribal lands in the 12-month period preceding the application.

''(5) COMMERCIAL AIR TOUR OPERATIONS.—The term 'commercial air tour operations' means commercial air tour flight operations conducted—

''(A) over a national park or within ½ mile outside the boundary of any national park;

''(B) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); and

''(C) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

''(6) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.

''(7) TRIBAL LANDS.—The term 'tribal lands' means 'Indian country', as defined by section 1151 of title 18, United States Code, that is within or abutting a national park.

''(8) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.

''(9) DIRECTOR.—The term 'Director' means the Director of the National Park Service.''.

(b) EXEMPTIONS AND SPECIAL RULES.—

(1) GRAND CANYON.—Section 40126 of title 49, United States Code, as added by subsection (a), does not apply to—

(A) the Grand Canyon National Park; or

(B) Indian country within or abutting the Grand Canyon National Park.

(2) LAKE MEAD.—A commercial air tour of the Grand Canyon that transits over or near the Lake Mead National Recreation Area en route to, or returning from, the Grand Canyon, without offering a deviation in flight path between its point of origin and the Grand Canyon, shall be considered, for purposes of paragraph (1), to be exclusively a commercial air tour of the Grand Canyon.

(3) QUIET AIRCRAFT TECHNOLOGY FOR GRAND CANYON.—

(A) QUIET TECHNOLOGY REQUIREMENTS.—Within 9 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology for purposes of this section. If no requirements are promulgated as mandated by this paragraph, then beginning 9 months after enactment of this Act and until the provisions of this paragraph are met, any aircraft shall be considered to be in compliance with this paragraph.

(B) ROUTES OR CORRIDORS.—The Administrator shall by rule establish routes or corridors for commercial air tours (as defined in section 40126(d)(1) of title 49, United States Code) by fixed-wing and helicopter aircraft that employ quiet aircraft technology for—

(i) tours of the Grand Canyon originating in Clark County, Nevada; and

(ii) ''local loop'' tours originating at the Grand Canyon National Park Airport, in Tusayan, Arizona.

(C) OPERATIONAL CAPS AND EXPANDED HOURS.—Commercial air tours (as so defined) by any fixed-wing or helicopter aircraft that employs quiet aircraft technology and that replaces an existing aircraft—

(i) shall not be subject to operational flight allocations applicable to other commercial air tours of the Grand Canyon; and

(ii) may be conducted during the hours from 7:00 a.m. to 7:00 p.m.

(D) MODIFICATION OF EXISTING AIRCRAFT TO MEET STANDARDS.—A commercial air tour (as so defined) by a fixed-wing or helicopter aircraft in a commercial air tour operator's fleet on the date of enactment of this Act that meets the requirements designated under subparagraph (A), or is subsequently modified to meet the requirements designated under subparagraph (A) may be used for commercial air tours under the same terms and conditions as a replacement aircraft under subparagraph (C) without regard to whether it replaces an existing aircraft.

(E) GOAL OF RESTORING NATURAL QUIET.—Nothing in this paragraph reduces the goal, established for the Federal Aviation Administration and the National Park Service under Public Law 100–91 (16 U.S.C. 1a–1 note), of achieving substantial restoration of the natural quiet at the Grand Canyon National Park.

(4) ALASKA.—The provisions of this title and section 40126 of title 49, United States Code, as added by subsection (a), do not apply to any land or waters located in Alaska.

(5) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40126 of title 49, United States Code—

(A) regulations issued by the Secretary of Transportation and the Administrator of the Federal Aviation Administration under section 3 of Public Law 100–91 (16 U.S.C. 1a–1, note); and

(B) commercial air tour operations carried out in compliance with the requirements of those regulations,

shall be deemed to meet the requirements of such section 40126.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by adding at the end thereof the following:

''40126. Overflights of national parks.''.

SEC. 603. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near national parks.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory group shall be composed of—

(A) a balanced group of —

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns; and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) EX-OFFICIO MEMBERS.—The Administrator and the Director shall serve as ex-officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title;

(2) on the designation of appropriate and feasible quiet aircraft technology standards for quiet aircraft technologies under development for commercial purposes, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) on such other national park or tribal lands-related safety, environmental, and air touring issues as the Administrator and the Director may request.

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, each member 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.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the advisory group.

(e) REPORT.—The Administrator and the Director shall jointly report to the Congress within 24 months after the date of enactment of this Act on the success of this title in providing incentives for quiet aircraft technology.

SEC. 604. OVERFLIGHT FEE REPORT.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the effects proposed overflight fees are likely to have on the commercial air tour industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of the proposed fee charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

SEC. 605. PROHIBITION OF COMMERCIAL AIR TOURS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

Effective beginning on the date of enactment of this Act, no commercial air tour may be operated in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40126 of title 49, United States Code, as added by this Act.

TITLE VII—TITLE 49 TECHNICAL CORRECTIONS

SEC. 701. RESTATEMENT OF 49 U.S.C. 106(g).

(a) IN GENERAL.—Section 106(g) is amended by striking ''40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b) and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302–45304,'' and inserting ''40113(a), (c)–(e), 40114(a), and 40119, and chapter 445 (except sections 44501(b), 44502(a)(2)–(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a) and (b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections''.

(b) TECHNICAL CORRECTION.—The amendment made by this section may not be construed as making a substantive change in the language replaced.

SEC. 702. RESTATEMENT OF 49 U.S.C. 44909.

Section 44909(a)(2) is amended by striking ''shall'' and inserting ''should''.

TITLE VIII—TRANSFER OF AERONAUTICAL CHARTING ACTIVITY

SEC. 801. TRANSFER OF FUNCTIONS, POWERS, AND DUTIES.

Effective October 1, 2000, there are transferred to the Federal Aviation Administration and vested in the Administrator of the Federal Aviation Administration the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography and are set forth in section 44721 of title 49, United States Code.

SEC. 802. TRANSFER OF OFFICE, PERSONNEL AND FUNDS.

(a) Effective October 1, 2000 the Office of Aeronautical Charting and Cartography of the National Oceanic and Atmospheric Administration, Department of Commerce, is transferred to the Federal Aviation Administration.

(b) Effective October 1, 2000 the personnel employed in connection with, and the assets, liabilities, contracts, property, equipment, facilities, records, and unexpended balance of appropriations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the function and offices, or portions of offices, transferred by this Act, including all Senior Executive Service positions, subject to section 1531 of title 31, United States Code, are transferred to the Administrator of the Federal Aviation Administration for appropriate allocation. Personnel employed in connection with functions transferred by this Act transfer under any applicable law and regulation relating to transfer of functions. Unexpended funds transferred under this section shall be used only for the purposes for which the funds were originally authorized and appropriated, except that funds may be used for expenses associated with the transfer authorized by this Act.

SEC. 803. AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) IN GENERAL.—Section 44721 is amended to read as follows:

''§ 44721. Aeronautical charts and related products and services

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration is invested with and shall exercise, effective October 1, 2000 the functions, powers, and duties of the Secretary of Commerce and other officers of the Department of Commerce that relate to the Office of Aeronautical Charting and Cartography to provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, under the following authorities:

''(1) Sections 1 through 9 of the Act entitled ''An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes'', approved August 6, 1947, (33 U.S.C. 883a-883h).

''(2) Section 6082 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (33 U.S.C. 883j).

''(3) Section 1307 of title 44, United States Code.

''(4) The provision of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 under the heading 'National Oceanic and Atmospheric Administration' relating to aeronautical charts (44 U.S.C. 1307 nt).

''(b) AUTHORITY TO CONDUCT SURVEYS.—To provide aeronautical charts and related products and services for the safe and efficient navigation of air commerce, and to provide basic data for engineering and scientific purposes and for other commercial and industrial needs, the Administrator is authorized to conduct the following activities:

''(1) Aerial and field surveys for aeronautical charts.

''(2) Other airborne and field surveys when in the best interest of the United States Government.

''(3) Acquiring, owning, operating, maintaining and staffing aircraft in support of surveys.

''(c) ADDITIONAL AUTHORITY.—In order that full public benefit may be derived from the dissemination of data resulting from activities under this section and of related data from other sources, the Administrator is authorized to conduct the following activities:

''(1) Developing, processing, disseminating and publishing of digital and analog data, information, compilations, and reports.

''(2) Compiling, printing, and disseminating aeronautical charts and related products and services of the United States, its Territories, and possessions.

''(3) Compiling, printing and disseminating aeronautical charts and related products and services covering international airspace as are required primarily by United States civil aviation.

''(4) Compiling, printing and disseminating non-aeronautical navigational, transportation or public-safety-related products and services when in the best interests of the United States Government.

''(d) CONTRACT, COOPERATIVE AGREEMENTS, GRANTS, AND OTHER AGREEMENTS.—

''(1) The Administrator is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the Office of Aeronautical Charting and Cartography when the Administrator deems such procedure to be in the public interest and will not compromise public safety.

''(2) The Administrator is authorized to enter into cooperative agreements, grants, reimbursable agreements, memoranda of understanding and other agreements, with a State, subdivision of a State, Federal agency, public or private organization, or individual, to carry out the purposes of this section.

''(e) SPECIAL SERVICES AND PRODUCTS.—

''(1) The Administrator is authorized, at the request of a State, subdivision of a State, Federal agency, public or private organization, or individual, to conduct special services, including making special studies, or developing special publications or products on matters relating to navigation, transportation, or public safety.

''(2) The Administrator shall assess a fee for any special service provided under paragraph (1). A fee shall be not more than the actual or estimated full cost of the service. A fee may be reduced or waived for research organizations, educational organizations, or non-profit organizations, when the Administrator determines that reduction or waiver of the fee is in the best interest of the United States Government by furthering public safety.

''(f) SALE AND DISSEMINATION OF AERONAUTICAL PRODUCTS.—

''(1) Aeronautical products created or maintained under the authority of this section shall be sold at prices established annually by the Administrator consistent with the following:

''(A) Subject to subparagraph (B), the price of an aeronautical product sold to the public shall be not more than necessary to recover all costs attributable to (i) data base management and processing; (ii) compilation; (iii) printing or other types of reproduction; and (iv) dissemination of the product.

''(B) The Administrator shall adjust the price of an aeronautical product and service sold to the public as necessary to avoid any adverse impact on aviation safety attributable to the price specified under this paragraph.

''(C) A price established under this paragraph may not include costs attributable to the acquisition of aeronautical data.

''(2) The Administrator shall publish annually the prices at which aeronautical products are sold to the public.

''(3) The Administrator may distribute aeronautical products and provide aeronautical services—

''(A) without charge to each foreign government or international organization with which the Administrator or a Federal agency has an agreement for exchange of these products or services without cost;

''(B) at prices the Administrator establishes, to the departments and officers of the United States requiring them for official use; and

''(C) at reduced or no charge where, in the judgment of the Administrator, furnishing the aeronautical product or service to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to the activities under this section.

''(4) The fees provided for in this subsection are for the purpose of reimbursing the United States Government for the costs of creating, printing and disseminating aeronautical products and services under this section. The collection of fees authorized by this section does not alter or expand any duty or liability of the Government under existing law for the performance of functions for which fees are collected, nor does the collection of fees constitute an express or implied undertaking by the Government to perform any activity in a certain manner.''.

(b) CONFORMING AMENDMENT.—The chapter analysis of chapter 447 is amended by adding at the end thereof the following:

''44721. Aeronautical charts and related products and services.''.

SEC. 804. SAVINGS PROVISION.

(a) CONTINUED EFFECTIVENESS OF DIRECTIVES.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, privileges, and financial assistance that—

(1) have been issued, made, granted, or allowed to become effective by the President of the United States, the Secretary of Commerce, the National Oceanic and Atmospheric Administration (NOAA) Administrator, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect on the date of transfer, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President of the United States, the Administrator, a court of competent jurisdiction, or by operation of law.

(b) CONTINUED EFFECTIVENESS OF PENDING ACTIONS.—

(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of transfer before the Department of Commerce or the NOAA Administrator, or any officer thereof with respect to functions transferred by this Act; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued in accord with transition guidelines promulgated by the Administrator under the authority of this section. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary of Commerce, the NOAA Administrator, and the Administrator of the Federal Aviation Administration are authorized to issue transition guidelines providing for the orderly transfer of proceedings and otherwise to accomplish the orderly transfer of functions, personnel and property under this Act.

(c) CONTINUED EFFECTIVENESS OF JUDICIAL ACTIONS.—No cause of action by or against the Department of Commerce or the National Oceanic and Atmospheric Administration with respect to functions transferred by this Act, or by or against any officer thereof in the official's capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function or office transferred by this Act, or other proceedings may be asserted by or against the United States or an official of the Federal Aviation Administration, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order that will give effect to the provisions of this subsection.

(d) SUBSTITUTION OR ADDITION OF PARTIES TO JUDICIAL ACTIONS.—If, on the date of transfer, the Department of Commerce or the National Oceanic and Atmospheric Administration, or any officer thereof in the official's capacity, is a party to an action, and under this Act any function relating to the action of such Department, Administration, or officer is transferred to the Federal Aviation Administration, then such action shall be continued with the Administrator of the Federal Aviation Administration substituted or added as a party.

(e) CONTINUED JURISDICTION OVER ACTIONS TRANSFERRED.—Orders and actions of the Administrator of the Federal Aviation Administration in the exercise of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Department of Commerce or the National Oceanic and Atmospheric Administration, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer.

(f) LIABILITIES AND OBLIGATIONS.—The Administrator shall assume all liabilities and obligations (tangible and incorporeal, present and executory) associated with the functions transferred under this Act on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, financial assistance, and litigation relating to such obligations, regardless whether judgment has been entered, damages awarded, or appeal taken.

SEC. 805. NATIONAL OCEAN SURVEY.

(a) Section 1 of the Act entitled ''An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes'', approved August 6, 1947, (33 U.S.C. 883a) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) Hydrographic, topographic and other types of field surveys;''; and

(2) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) Section 2 of that Act (33 U.S.C. 883b) is amended—

(1) by striking paragraphs (3) and (5), and redesignating paragraph (4) and (6) as paragraphs (3) and (4), respectively;

(2) by striking ''charts of the United States, its Territories, and possessions;'' in paragraph (3), as redesignated, and inserting ''charts;''; and

(3) by striking ''publications for the United States, its Territories, and possessions'' in paragraph (4), as redesignated, and inserting ''publications.''.

(c) Section 5(1) of that Act (33 U.S.C. 883e(1)) is amended by striking ''cooperative agreements'' and inserting ''cooperative agreements, or any other agreements,''.

SEC. 806. SALE AND DISTRIBUTION OF NAUTICAL AND AERONAUTICAL PRODUCTS BY NOAA.

(a) Section 1307 of title 44, United States Code, is amended by striking ''and aeronautical'' and ''or aeronautical'' each place they appear.

(b) Section 1307(a)(2)(B) of title 44, United States Code, is amended by striking ''aviation and''.

(c) Section 1307(d) of title 44, United States Code, is amended by striking ''aeronautical and''.

TITLE IX—MANAGEMENT REFORMS OF THE FEDERAL AVIATION ADMINISTRATION

SEC. 901. SHORT TITLE.

This title may be cited as the ''Air Traffic Management Improvement Act of 1999''.

SEC. 902. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 903. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Department of Transportation.

SEC. 904. FINDINGS.

The Congress makes the following findings:

(1) The Nation's air transportation system is projected to grow by 3.4 percent per year over the next 12 years.

(2) Passenger enplanements are expected to rise to more than 1 billion by 2009, from the current level of 660 million.

(3) The aviation industry is one of our Nation's critical industries, providing a means of travel to people throughout the world, and a means of moving cargo around the globe.

(4) The ability of all sectors of American society, urban and rural, to access and to compete effectively in the new and dynamic global economy requires the ability of the aviation industry to serve all the Nation's communities effectively and efficiently.

(5) The Federal Government's role is to promote a safe and efficient national air transportation system through the management of the air traffic control system and through effective and sufficient investment in aviation infrastructure, including the Nation's airports.

(6) Numerous studies and reports, including the National Civil Aviation Review Commission, have concluded that the projected expansion of air service may be constrained by gridlock in our Nation's airways, unless substantial management reforms are initiated for the Federal Aviation Administration.

(7) The Federal Aviation Administration is responsible for safely and efficiently managing the National Airspace System 365 days a year, 24 hours a day.

(8) The Federal Aviation Administration's ability to efficiently manage the air traffic system in the United States is restricted by antiquated air traffic control equipment.

(9) The Congress has previously recognized that the Administrator needs relief from the Federal Government's cumbersome personnel and procurement laws and regulations to take advantage of emerging technologies and to hire and retain effective managers.

(10) The ability of the Administrator to achieve greater efficiencies in the management of the air traffic control system requires additional management reforms, such as the ability to offer incentive pay for excellence in the employee workforce.

(11) The ability of the Administrator to effectively manage finances is dependent in part on the Federal Aviation Administration's ability to enter into long-term debt and lease financing of facilities and equipment, which in turn is dependent on sustained sound audits and implementation of a cost management program.

(12) The Administrator should use the full authority of the Federal Aviation Administration to make organizational changes to improve the efficiency of the air traffic control system, without compromising the Federal Aviation Administration's primary mission of protecting the safety of the travelling public.

SEC. 905. AIR TRAFFIC CONTROL SYSTEM DEFINED.

Section 40102(a) is amended—

(1) by redesignating paragraphs (5) through (41) as paragraphs (6) through (42), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) 'air traffic control system' means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the United States and United States-assigned airspace, including—

''(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

''(B) laws, regulations, orders, directives, agreements, and licenses;

''(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation; and

''(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.''.

SEC. 906. CHIEF OPERATING OFFICER FOR AIR TRAFFIC SERVICES.

(a) Section 106 is amended by adding at the end the following:

''(r) CHIEF OPERATING OFFICER.—

''(1) IN GENERAL.—

''(A) APPOINTMENT.—There shall be a Chief Operating Officer for the air traffic control system to be appointed by the Administrator, after consultation with the Management Advisory Council. The Chief Operating Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

''(B) QUALIFICATIONS.—The Chief Operating Officer shall have a demonstrated ability in management and knowledge of or experience in aviation.

''(C) TERM.—The Chief Operating Officer shall be appointed for a term of 5 years.

''(D) REMOVAL.—The Chief Operating Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the air traffic control system.

''(E) COMPENSATION.—

''(i) The Chief Operating Officer shall be paid at an annual rate of basic pay not to exceed that of the Administrator, including any applicable locality-based payment. This basic rate of pay shall subject the chief operating officer to the post-employment provisions of section 207 of title 18 as if this position were described in section 207(c)(2)(A)(i) of that title.

''(ii) In addition to the annual rate of basic pay authorized by paragraph (1) of this subsection, the Chief Operating Officer may receive a bonus not to exceed 50 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief Operating Officer's performance in relation to the performance goals set forth in the performance agreement described in subsection (b) of this section. A bonus may not cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.

''(2) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief Operating Officer shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief Operating Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

''(3) ANNUAL PERFORMANCE REPORT.—The Chief Operating Officer shall prepare and submit to the Secretary of Transportation and Congress an annual management report containing such information as may be prescribed by the Secretary.

''(4) RESPONSIBILITIES.—The Administrator may delegate to the Chief Operating Officer, or any other authority within the Federal Aviation Administration responsibilities, including, but not limited to the following:

''(A) STRATEGIC PLANS.—To develop a strategic plan of the Federal Aviation Administration for the air traffic control system, including the establishment of—

''(i) a mission and objectives;

''(ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

''(iii) annual and long-range strategic plans.

''(iv) methods of the Federal Aviation Administration to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control.

''(B) OPERATIONS.—To review the operational functions of the Federal Aviation Administration, including—

''(i) modernization of the air traffic control system;

''(ii) increasing productivity or implementing cost-saving measures; and

''(iii) training and education.

''(C) BUDGET.—To—

''(i) develop a budget request of the Federal Aviation Administration related to the air traffic control system prepared by the Administrator;

''(ii) submit such budget request to the Administrator and the Secretary of Transportation; and

''(iii) ensure that the budget request supports the annual and long-range strategic plans developed under paragraph (4)(A) of this subsection.

''(5) BUDGET SUBMISSION.—The Secretary shall submit the budget request prepared under paragraph (4)(D) of this subsection for any fiscal year to the President who shall submit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.''.

SEC. 907. FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL.

(a) MEMBERSHIP.—Section 106(p)(2)(C) is amended to read as follows:

''(C) 13 members representing aviation interests, appointed by—

''(i) in the case of initial appointments to the Council, the President by and with the advice and consent of the Senate; and

''(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation.''.

(b) TERMS OF MEMBERS.—Section 106(p)(6)(A)(i) is amended by striking ''by the President''.

(c) AIR TRAFFIC SERVICES SUBCOMMITTEE.—Section 106(p)(6) is amended by adding at the end thereof the following:

''(E) AIR TRAFFIC SERVICES SUBCOMMITTEE.—The Chairman of the Management Advisory Council shall constitute an Air Traffic Services Subcommittee to provide comments, recommend modifications, and provide dissenting views to the Administrator on the performance of air traffic services, including—

''(i) the performance of the Chief Operating Officer and other senior managers within the air traffic organization of the Federal Aviation Administration;

''(ii) long-range and strategic plans for air traffic services;

''(iii) review the Administrator's selection, evaluation, and compensation of senior executives of the Federal Aviation Administration who have program management responsibility over significant functions of the air traffic control system;

''(iv) review and make recommendations to the Administrator's plans for any major reorganization of the Federal Aviation Administration that would effect the management of the air traffic control system;

''(v) review, and make recommendations to the Administrator's cost allocation system and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation;

''(vi) review the performance and cooperation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets; and

''(vii) other significant actions that the Subcommittee considers appropriate and that are consistent with the implementation of this Act.''.

SEC. 908. COMPENSATION OF THE ADMINISTRATOR.

Section 106(b) is amended—

(1) by inserting ''(1)'' before ''The''; and

(2) by adding at the end the following:

''(2) In addition to the annual rate of pay authorized for the Administrator, the Administrator may receive a bonus not to exceed 50 percent of the annual rate of basic pay, based upon the Secretary's evaluation of the Administrator's performance in relation to the performance goals set forth in a performance agreement. A bonus may not cause the Administrator's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.''.

SEC. 909. NATIONAL AIRSPACE REDESIGN.

(a) FINDINGS RELATING TO THE NATIONAL AIRSPACE.—The Congress makes the following additional findings:

(1) The national airspace, comprising more than 29 million square miles, handles more than 55,000 flights per day.

(2) Almost 2,000,000 passengers per day traverse the United States through 20 major en route centers including more than 700 different sectors.

(3) Redesign and review of the national airspace may produce benefits for the travelling public by increasing the efficiency and capacity of the air traffic control system and reducing delays.

(4) Redesign of the national airspace should be a high priority for the Federal Aviation Administration and the air transportation industry.

(b) REDESIGN REPORT.—The Administrator, with advice from the aviation industry and other interested parties, shall conduct a comprehensive redesign of the national airspace system and shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House on the Administrator's comprehensive national airspace redesign. The report shall include projected milestones for completion of the redesign and shall also include a date for completion. The report must be submitted to the Congress no later than December 31, 2000. There are authorized to be appropriated to the Administrator to carry out this section $12,000,000 for fiscal years 2000, 2001, and 2002.

SEC. 910. FAA COSTS AND ALLOCATIONS SYSTEM MANAGEMENT.

(a) REPORT ON THE COST ALLOCATION SYSTEM.—No later than July 9, 2000, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House on the cost allocation system currently under development by the Federal Aviation Administration. The report shall include a specific date for completion and implementation of the cost allocation system throughout the agency and shall also include the timetable and plan for the implementation of a cost management system.

(b) INDEPENDENT ASSESSMENT.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct the assessments described in this subsection. To conduct the assessments, the Inspector General may use the staff and resources of the Inspector General or contract with one or more independent entities.

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FEDERAL AVIATION ADMINISTRATION COST DATA AND ATTRIBUTIONS.—

(A) IN GENERAL.—The Inspector General shall conduct an assessment to ensure that the method for calculating the overall costs of the Federal Aviation Administration and attributing such costs to specific users is appropriate, reasonable, and understandable to the users.

(B) COMPONENTS.—In conducting the assessment under this paragraph, the Inspector General shall assess the Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs.

(3) COST EFFECTIVENESS.—

(A) IN GENERAL.—The Inspector General shall assess the progress of the Federal Aviation Administration in cost and performance management, including use of internal and external benchmarking in improving the performance and productivity of the Federal Aviation Administration.

(B) ANNUAL REPORTS.—Not later than December 31, 2000, the Inspector General shall transmit to Congress an updated report containing the results of the assessment conducted under this paragraph.

(C) INFORMATION TO BE INCLUDED IN FEDERAL AVIATION ADMINISTRATION FINANCIAL REPORT.—The Administrator shall include in the annual financial report of the Federal Aviation Administration information on the performance of the Administration sufficient to permit users and others to make an informed evaluation of the progress of the Administration in increasing productivity.

SEC. 911. AIR TRAFFIC MODERNIZATION PILOT PROGRAM.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end thereof the following:

''§ 44516. Air traffic modernization joint venture pilot program

''(a) PURPOSE.—It is the purpose of this section to improve aviation safety and enhance mobility of the Nation's air transportation system by facilitating the use of joint ventures and innovative financing, on a pilot program basis, between the Federal Aviation Administration and industry, to accelerate investment in critical air traffic control facilities and equipment.

''(b) DEFINITIONS.—As used in this section:

''(1) ASSOCIATION.—The term 'Association' means the Air Traffic Modernization Association established by this section.

''(2) PANEL.—The term 'panel' means the executive panel of the Air Traffic Modernization Association.

''(3) OBLIGOR.—The term 'obligor' means a public airport, an air carrier or foreign air carrier that operates a public airport, or a consortium consisting of 2 or more of such entities.

''(4) ELIGIBLE PROJECT.—The term 'eligible project' means a project relating to the Nation's air traffic control system that promotes safety, efficiency or mobility, and is included in the Airway Capital Investment Plan required by section 44502, including—

''(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landings systems, weather and wind shear detection equipment, lighting improvements and control towers;

''(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

''(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and off-shore flight tracking.

''(5) SUBSTANTIAL COMPLETION.—The term 'substantial completion' means the date upon which a project becomes available for service.

''(c) AIR TRAFFIC MODERNIZATION ASSOCIATION.—

''(1) IN GENERAL.—There may be established in the District of Columbia a private, not for profit corporation, which shall be known as the Air Traffic Modernization Association, for the purpose of providing assistance to obligors through arranging lease and debt financing of eligible projects.

''(2) NON-FEDERAL ENTITY.—The Association shall not be an agency, instrumentality or establishment of the United States Government and shall not be a 'wholly-owned Government controlled corporation' as defined in section 9101 of title 31, United States Code. No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the Association.

''(3) EXECUTIVE PANEL.—

''(A) The Association shall be under the direction of an executive panel made up of 3 members, as follows—

''(i) 1 member shall be an employee of the Federal Aviation Administration to be appointed by the Administrator;

''(ii) 1 member shall be a representative of commercial air carriers, to be appointed by the Management Advisory Council; and

''(iii) 1 member shall be a representative of operators of primary airports, to be appointed by the Management Advisory Council.

''(B) The panel shall elect from among its members a chairman who shall serve for a term of 1 year and shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the Association.

''(4) POWERS, DUTIES AND LIMITATIONS.—Consistent with sound business techniques and provisions of this chapter, the Association is authorized—

''(A) to borrow funds and enter into lease arrangements as lessee with other parties relating to the financing of eligible projects, provided that any public debt issuance shall be rated investment grade by a nationally recognized statistical rating organization;

''(B) to lend funds and enter into lease arrangements as lessor with obligors, but—

''(i) the term of financing offered by the Association shall not exceed the useful life of the eligible project being financed, as estimated by the Administrator; and

''(ii) the aggregate amount of combined debt and lease financing provided under this subsection for air traffic control facilities and equipment—

''(I) may not exceed $500,000,000 per fiscal year for fiscal years 2000, 2001, and 2002;

''(II) shall be used for not more than 10 projects; and

''(III) may not provide funding in excess of $50,000,000 for any single project; and

''(C) to exercise all other powers that are necessary and proper to carry out the purposes of this section.

''(5) PROJECT SELECTION CRITERIA.—In selecting eligible projects from applicants to be funded under this section, the Association shall consider the following criteria:

''(A) The eligible project's contribution to the national air transportation system, as outlined in the Federal Aviation Administration's modernization plan for alleviating congestion, enhancing mobility, and improving safety.

''(B) The credit-worthiness of the revenue stream pledged by the obligor.

''(C) The extent to which assistance by the Association will enable the obligor to accelerate the date of substantial completion of the project.

''(D) The extent of economic benefit to be derived within the aviation industry, including both public and private sectors.

''(d) AUTHORITY TO ENTER INTO JOINT VENTURE.—

''(1) IN GENERAL.—Subject to the conditions set forth in this section, the Administrator of the Federal Aviation Administration is authorized to enter into a joint venture, on a pilot program basis, with Federal and non-Federal entities to establish the Air Traffic Modernization Association described in subsection (c) for the purpose of acquiring, procuring or utilizing air traffic facilities and equipment in accordance with the Airway Capital Investment Plan.

''(2) COST SHARING.—The Administrator is authorized to make payments to the Association from amounts available under section 4801(a) of this title, provided that the agency's share of an annual payment for a lease or other financing agreement does not exceed the direct or imputed interest portion of each annual payment for an eligible project. The share of the annual payment to be made by an obligor to the lease or other financing agreement shall be in sufficient amount to amortize the asset cost. If the obligor is an airport sponsor, the sponsor may use revenue from a passenger facility fee, provided that such revenue does not exceed 25 cents per enplaned passenger per year.

''(3) PROJECT SPECIFICATIONS.—The Administrator shall have the sole authority to approve the specifications, staffing requirements, and operating and maintenance plan for each eligible project, taking into consideration the recommendations of the Air Traffic Services Subcommittee of the Management Advisory Council.

''(e) INCENTIVES FOR PARTICIPATION.—An airport sponsor that enters into a lease or financial arrangement financed by the Air Traffic Modernization Association may use its share of the annual payment as a credit toward the non-Federal matching share requirement for any funds made available to the sponsor for airport development projects under chapter 471 of this title.

''(f) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds to the Association pursuant to subsection (d) of this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States by virtue of the contribution. The obligations of the Association do not constitute any commitment, guarantee or obligation of the United States.

''(g) REPORT TO CONGRESS.—Not later than 3 years after establishment of the Association, the Administrator shall provide a comprehensive and detailed report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the Association's activities including—

''(1) an assessment of the Association's effectiveness in accelerating the modernization of the air traffic control system;

''(2) a full description of the projects financed by the Association and an evaluation of the benefits to the aviation community and general public of such investment; and

''(3) recommendations as to whether this pilot program should be expanded or other strategies should be pursued to improve the safety and efficiency of the Nation's air transportation system.

''(h) AUTHORIZATION.—Not more than the following amounts may be appropriated to the Administrator from amounts made available under section 4801(a) of this title for the agency's share of the organizational and administrative costs for the Air Traffic Modernization Association—

''(1) $500,000 for fiscal year 2000;

''(2) $500,000 for fiscal year 2001; and

''(3) $500,000 for fiscal year 2002.

''(i) RELATIONSHIP TO OTHER AUTHORITIES.—Nothing in this section is intended to limit or diminish existing authorities of the Administrator to acquire, establish, improve, operate, and maintain air navigation facilities and equipment.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 40117(b)(1) is amended by striking ''controls.'' and inserting ''controls, or to finance an eligible project through the Air Traffic Modernization Association in accordance with section 44516 of this title.''.

(2) The analysis for chapter 445 is amended by adding at the end the following:

''44516. Air traffic modernization pilot program.''.

TITLE X—METROPOLITAN AIRPORTS AUTHORITY IMPROVEMENT ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Metropolitan Airports Authority Improvement Act''.

SEC. 1002. REMOVAL OF LIMITATION.

Section 49106(c)(6) of title 49, United States Code, is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraph (D) as subparagraph (C).

TITLE XI—NOISE ABATEMENT

SEC. 1101. GOOD NEIGHBORS POLICY.

(a) PUBLIC DISCLOSURE OF NOISE MITIGATION EFFORTS BY AIR CARRIERS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Transportation shall collect and publish information provided by air carriers regarding their operating practices that encourage their pilots to follow the Federal Aviation Administration's operating guidelines on noise abatement.

(b) SAFETY FIRST.—The Secretary shall take such action as is necessary to ensure that noise abatement efforts do not threaten aviation safety.

(c) PROTECTION OF PROPRIETARY INFORMATION.—In publishing information required by this section, the Secretary shall take such action as is necessary to prevent the disclosure of any air carrier's proprietary information.

(d) NO MANDATE.—Nothing in this section shall be construed to mandate, or to permit the Secretary to mandate, the use of noise abatement settings by pilots.

SEC. 1102. GAO REVIEW OF AIRCRAFT ENGINE NOISE ASSESSMENT.

(a) GAO STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on regulations and activities of the Federal Aviation Administration in the area of aircraft engine noise assessment. The study shall include a review of—

(1) the consistency of noise assessment techniques across different aircraft models and aircraft engines, and with varying weight and thrust settings; and

(2) a comparison of testing procedures used for unmodified engines and engines with hush kits or other quieting devices.

(b) RECOMMENDATIONS TO THE FAA.—The Comptroller General's report shall include specific recommendations to the Federal Aviation Administration on new measures that should be implemented to ensure consistent measurement of aircraft engine noise.

SEC. 1103. GAO REVIEW OF FAA COMMUNITY NOISE ASSESSMENT.

(a) GAO STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on the regulations and activities of the Federal Aviation Administration in the area of noise assessment in communities near airports. The study shall include a review of whether the noise assessment practices of the Federal Aviation Administration fairly and accurately reflect the burden of noise on communities.

(b) RECOMMENDATIONS TO THE FAA.—The Comptroller General's report shall include specific recommendations to the Federal Aviation Administration on new measures to improve the assessment of airport noise in communities near airports.

TITLE XII—STUDY TO ENSURE CONSUMER INFORMATION

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Improved Consumer Access to Travel Information Act''.

SEC. 1202. NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission to Ensure Consumer Information and Choice in the Airline Industry'' (in this section referred to as the ''Commission'').

(b) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) consumer access to information about the products and services of the airline industry;

(B) the effect on the marketplace of the emergence of new means of distributing such products and services;

(C) the effect on consumers of the declining financial condition of travel agents in the United States; and

(D) the impediments imposed by the airline industry on distributors of the industry's products and services, including travel agents and Internet-based distributors.

(2) POLICY RECOMMENDATIONS.—Based on the results of the study described in paragraph (1), the Commission shall recommend to the President and Congress policies necessary to—

(A) ensure full consumer access to complete information concerning airline fares, routes, and other services;

(B) ensure that the means of distributing the products and services of the airline industry, and of disseminating information about such products and services, is adequate to ensure that competitive information is available in the marketplace;

(C) ensure that distributors of the products and services of the airline industry have adequate relief from illegal, anticompetitive practices that occur in the marketplace; and

(D) foster healthy competition in the airline industry and the entry of new entrants.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—In carrying out the study authorized under subsection (b)(1), the Commission shall specifically address the following:

(1) CONSUMER ACCESS TO INFORMATION.—With respect to consumer access to information regarding the services and products offered by the airline industry, the following:

(A) The state of such access.

(B) The effect in the 5-year period following the date of the study of the making of alliances in the airline industry.

(C) Whether and to what degree the trends regarding such access will produce benefits to consumers.

(2) MEANS OF DISTRIBUTION.—With respect to the means of distributing the products and services of the airline industry, the following:

(A) The state of such means of distribution.

(B) The roles played by travel agencies and Internet-based providers of travel information and services in distributing such products and services.

(C) Whether the policies of the United States promote the access of consumers to multiple means of distribution.

(3) AIRLINE RESERVATION SYSTEMS.—With respect to airline reservation systems, the following:

(A) The rules, regulations, policies, and practices of the industry governing such systems.

(B) How trends in such systems will affect consumers, including—

(i) the effect on consumer access to flight reservation information; and

(ii) the effect on consumers of the use by the airline industry of penalties and promotions to convince distributors to use such systems, and the degree of consumer awareness of such penalties and promotions.

(4) LEGAL IMPEDIMENTS TO DISTRIBUTORS SEEKING RELIEF FOR ANTICOMPETITIVE ACTIONS.—The policies of the United States with respect to the legal impediments to distributors seeking relief for anticompetitive actions, including—

(A) Federal preemption of civil actions against airlines; and

(B) the role of the Department of Transportation in enforcing rules against anticompetitive practices.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members and 11 nonvoting members as follows:

(A) 5 voting members and 1 nonvoting member appointed by the President.

(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

(C) 2 voting members and 2 nonvoting members appointed by the Minority Leader of the House of Representatives.

(D) 3 voting members and 3 nonvoting members appointed by the Majority Leader of the Senate.

(E) 2 voting members and 2 nonvoting members appointed by the Minority Leader of the Senate.

(2) QUALIFICATIONS.—Voting members appointed under paragraph (1) shall be appointed from among individuals who are experts in economics, service product distribution, or transportation, or any related discipline, and who can represent consumers, passengers, shippers, travel agents, airlines, or general aviation.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) CHAIRPERSON.—The President, in consultation with the Speaker of the House of Representatives and the Majority Leader of the Senate, shall designate the Chairperson of the Commission (referred to in this title as the ''Chairperson'') from among its voting members.

(e) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of voting members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(h) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (b)(2).

(k) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(l) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

TITLE XIII—FEDERAL AVIATION RESEARCH, ENGINEERING, AND DEVELOPMENT

SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) of title 49, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (4)(J);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

''(6) $240,000,000 for fiscal year 2000;

''(7) $250,000,000 for fiscal year 2001; and

''(8) $260,000,000 for fiscal year 2002;''.

SEC. 1302. INTEGRATED NATIONAL AVIATION RESEARCH PLAN.

(a) IN GENERAL.—Section 44501(c) of title 49, United States Code, is amended—

(1) in paragraph (2)(B)—

(A) by striking ''and'' at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting in lieu thereof ''; and''; and

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

''(v) highlight the research and development technology transfer activities that promote technology sharing among government, industry, and academia through the Stevenson-Wydler Technology Innovation Act of 1980.''; and

(2) in paragraph (3), by inserting ''The report shall be prepared in accordance with requirements of section 1116 of title 31, United States Code.'' after ''effect for the prior fiscal year.''.

(b) REQUIREMENT.—Not later than March 1, 2000, the Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall jointly prepare and transmit to the Congress an integrated civil aviation research and development plan.

(c) CONTENTS.—The plan required by subsection (b) shall include—

(1) an identification of the respective research and development requirements, roles, and responsibilities of the National Aeronautics and Space Administration and the Federal Aviation Administration;

(2) formal mechanisms for the timely sharing of information between the National Aeronautics and Space Administration and the Federal Aviation Administration; and

(3) procedures for increased communication and coordination between the Federal Aviation Administration research advisory committee established under section 44508 of title 49, United States Code, and the NASA Aeronautics and Space Transportation Technology Advisory Committee.

SEC. 1303. INTERNET AVAILABILITY OF INFORMATION.

The Administrator of the Federal Aviation Administration shall make available through the Internet home page of the Federal Aviation Administration the abstracts relating to all research grants and awards made with funds authorized by the amendments made by this Act. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.

SEC. 1304. RESEARCH ON NONSTRUCTURAL AIRCRAFT SYSTEMS.

Section 44504(b)(1) of title 49, United States Code, is amended by inserting '', including nonstructural aircraft systems,'' after ''life of aircraft''.

SEC. 1305. POST FREE FLIGHT PHASE I ACTIVITIES.

No later than May 1, 2000, the Administrator of the Federal Aviation Administration shall transmit to Congress a definitive plan for the continued implementation of Free Flight Phase I operational capabilities for fiscal years 2003 through 2005. The plan shall include and address the recommendations concerning operational capabilities for fiscal years 2003 through 2005 due to be made by the RTCA Free Flight Steering Committee in December 1999 that was established at the direction of the Federal Aviation Administration. The plan shall also include budget estimates for the implementation of these operational capabilities.

SEC. 1306. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

The Administrator of the Federal Aviation Administration shall consider awards to nonprofit concrete pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and durable airfield pavements. The Administrator may use a grant or cooperative agreement for this purpose. Nothing in this section shall require the Administrator to prioritize an airfield payment research program above safety, security, Flight 21, environment, or energy research programs.

SEC. 1307. SENSE OF SENATE REGARDING PROTECTING THE FREQUENCY SPECTRUM USED FOR AVIATION COMMUNICATION.

It is the sense of the Senate that with the World Radio Communication Conference scheduled to begin in May, 2000, and the need to ensure that the frequency spectrum available for aviation communication and navigation is adequate, the Federal Aviation Administration should—

(1) give high priority to developing a national policy to protect the frequency spectrum used for the Global Positioning System that is critical to aviation communications and the safe operation of aircraft; and

(2) expedite the appointment of the United States Ambassador to the World Radio Communication Conference.

SEC. 1308. STUDY.

The Secretary shall conduct a study to evaluate the applicability of the techniques used to fund and administer research under the National Highway Cooperative Research Program and the National Transmit Research Program to the research needs of airports.

TITLE XIV—AIRLINE CUSTOMER SERVICE COMMITMENT

SEC. 1401. AIRLINE CUSTOMER SERVICE REPORTS.

(a) SECRETARY TO REPORT PLANS RECEIVED.—Each air carrier that provides scheduled passenger air transportation and that is a member of the Air Transport Association, all of which have entered into the voluntary customer service commitments established by the Association on June 17, 1999 (hereinafter referred to as the ''Airline Customer Service Commitment''), shall provide a copy of its individual customer service plan to the Secretary of Transportation by September 15, 1999. The Secretary, upon receipt of the individual plans, shall report to the Senate Committee on Commerce, Science, and Transportation and to the House of Representatives Committee on Transportation and Infrastructure the receipt of each such plan and transmit a copy of each plan.

(b) IMPLEMENTATION.—The Inspector General of the Department of Transportation shall monitor the implementation of any plan submitted to the Secretary under subsection (a) and evaluate the extent to which each such carrier has met its commitments under its plan. Each such carrier shall provide such information to the Inspector General as may be necessary for the Inspector General to prepare the report required by subsection (c).

(c) REPORTS TO THE CONGRESS.—

(1) INTERIM REPORT.—The Inspector General shall submit a report of the Inspector General's findings under subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by June 15, 2000, that includes a status report on completion, publication, and implementation of the Airline Customer Service Commitment and the individual airline plans to carry it out. The report shall include a review of whether each air carrier has modified its contract of carriage or conditions of contract to reflect each item of the Airline Customer Service Commitment.

(2) FINAL REPORT; RECOMMENDATIONS.—

(A) IN GENERAL.—The Inspector General shall submit a final report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by December 31, 2000, on the effectiveness of the Airline Customer Service Commitment and the individual airline plans to carry it out, including recommendations for improving accountability, enforcement, and consumer protections afforded to commercial air passengers.

(B) SPECIFIC CONTENT.—In the final report under subparagraph (A), the Inspector General shall—

(i) evaluate each carrier's plan for whether it is consistent with the voluntary commitments established by the Air Transport Association in the Airline Customer Service Commitment;

(ii) evaluate each carrier as to the extent to which, and the manner in which, it has performed in carrying out its plan;

(iii) identify, by air carrier, how it has implemented each commitment covered by its plan; and

(iv) provide an analysis, by air carrier, of the methods of meeting each commitment, and in such analysis provide information that allows consumers to make decisions on the quality of air transportation provided by such carriers.

SEC. 1402. INCREASED FINANCIAL RESPONSIBILITY FOR LOST BAGGAGE.

The Secretary of Transportation shall initiate a rule making within 30 days after the date of enactment of this Act to increase the domestic baggage liability limit in part 254 of title 14, Code of Federal Regulations.

SEC. 1403. INCREASED PENALTY FOR VIOLATION OF AVIATION CONSUMER PROTECTION LAWS.

Section 46301(a), as amended by section 407 of this Act, is amended by adding at the end thereof the following:

''(8) CONSUMER PROTECTION.—For a violation of sections 41310 and 41712, any rule or regulation promulgated thereunder, or any other rule or regulation promulgated by the Secretary of Transportation that is intended to afford protection to commercial air transportation consumers, the maximum civil penalty prescribed by subsection (a) may not exceed $2,500 for each violation.''.

SEC. 1404. COMPTROLLER GENERAL INVESTIGATION.

The Comptroller General of the United States shall study the potential effects on aviation consumers, including the impact on fares and service to small communities, of a requirement that air carriers permit a ticketed passenger to use any portion of a multiple-stop or round-trip air fare for transportation independent of any other portion without penalty. The Comptroller General shall submit a report, based on the study, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by June 15, 2000.

SEC. 1405. FUNDING OF ENFORCEMENT OF AIRLINE CONSUMER PROTECTIONS.

(a) IN GENERAL.—Chapter 481 is amended by adding at the end thereof the following:

''§ 48112. Consumer protection

''There are authorized to be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of

1986 for the purpose of ensuring compliance with, and enforcing, the rights of air travelers under sections 41310 and 41712 of this title—

''(1) $2,300,000 for fiscal year 2000;

''(2) $2,415,000 for fiscal year 2001;

''(3) $2,535,750 for fiscal year 2002; and

''(4) $2,662,500 for fiscal year 2003.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 481 is amended by adding at the end thereof the following:

''48112. Consumer protection.''.

TITLE XV—PENALTIES FOR UNRULY PASSENGERS

SEC. 1501. PENALTIES FOR UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

''§ 46317. Interference with cabin or flight crew

''(a) GENERAL RULE.—An individual who physically assaults or threatens to physically assault a member of the flight crew or cabin crew of a civil aircraft or any other individual on the aircraft, or takes any action that poses an imminent threat to the safety of the aircraft or other individuals on the aircraft is liable to the United States Government for a civil penalty of not more than $25,000.

''(b) COMPROMISE AND SETOFF.—

''(1) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section.

''(2) SETOFF.—The United States Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts the Government owes the person liable for the penalty.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 463 is amended by adding at the end the following:

''46317. Interference with cabin or flight crew.''.

SEC. 1502. DEPUTIZING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) DEFINITIONS.—In this section:

(1) AIRCRAFT.—The term ''aircraft'' has the meaning given that term in section 40102.

(2) AIR TRANSPORTATION.—The term ''air transportation'' has the meaning given that term in section 40102.

(3) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States.

(b) ESTABLISHMENT OF A PROGRAM TO DEPUTIZE LOCAL LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—The Attorney General may—

(A) establish a program under which the Attorney General may deputize State and local law enforcement officers having jurisdiction over airports and airport authorities as Deputy United States Marshals for the limited purpose of enforcing Federal laws that regulate security on board aircraft, including laws relating to violent, abusive, or disruptive behavior by passengers of air transportation; and

(B) encourage the participation of law enforcement officers of State and local governments in the program established under subparagraph (A).

(2) CONSULTATION.—In establishing the program under paragraph (1), the Attorney General shall consult with appropriate officials of—

(A) the Federal Government (including the Administrator of the Federal Aviation Administration or a designated representative of the Administrator); and

(B) State and local governments in any geographic area in which the program may operate.

(3) TRAINING AND BACKGROUND OF LAW ENFORCEMENT OFFICERS.—

(A) IN GENERAL.—Under the program established under this subsection, to qualify to serve as a Deputy United States Marshal under the program, a State or local law enforcement officer shall—

(i) meet the minimum background and training requirements for a law enforcement officer under part 107 of title 14, Code of Federal Regulations (or equivalent requirements established by the Attorney General); and

(ii) receive approval to participate in the program from the State or local law enforcement agency that is the employer of that law enforcement officer.

(B) TRAINING NOT FEDERAL RESPONSIBILITY.—The Federal Government shall not be responsible for providing to a State or local law enforcement officer the training required to meet the training requirements under subparagraph (A)(i). Nothing in this subsection may be construed to grant any such law enforcement officer the right to attend any institution of the Federal Government established to provide training to law enforcement officers of the Federal Government.

(c) POWERS AND STATUS OF DEPUTIZED LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—Subject to paragraph (2), a State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) may arrest and apprehend an individual suspected of violating any Federal law described in subsection (b)(1)(A), including any individual who violates a provision subject to a civil penalty under section 46301 of title 49, United States Code, or section 46302, 46303, 46504, 46505, or 46507 of that title, or who commits an act described in section 46506 of that title.

(2) LIMITATION.—The powers granted to a State or local law enforcement officer deputized under the program established under subsection (b) shall be limited to enforcing Federal laws relating to security on board aircraft in flight.

(3) STATUS.—A State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program established under subsection (b) shall not—

(A) be considered to be an employee of the Federal Government; or

(B) receive compensation from the Federal Government by reason of service as a Deputy United States Marshal in the program.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to—

(1) grant a State or local law enforcement officer that is deputized under the program under subsection (b) the power to enforce any Federal law that is not described in subsection (c); or

(2) limit the authority that a State or local law enforcement officer may otherwise exercise in the capacity under any other applicable State or Federal law.

(e) REGULATIONS.—The Attorney General may promulgate such regulations as may be necessary to carry out this section.

SEC. 1503. STUDY AND REPORT ON AIRCRAFT NOISE.

Not later than December 31, 2002, the Secretary of Transportation shall conduct a study and report to Congress on—

(1) airport noise problems in the United States;

(2) the status of cooperative consultations and agreements between the Federal Aviation Administration and the International Civil Aviation Organization on stage 4 aircraft noise levels; and

(3) the feasibility of proceeding with the development and implementation of a timetable for air carrier compliance with stage 4 aircraft noise requirements.

TITLE XVI—AIRLINE COMMISSION

SEC. 1601. SHORT TITLE.

This title may be cited as the ''Improved Consumer Access to Travel Information Act''.

SEC. 1602. NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission to Ensure Consumer Information and Choice in the Airline Industry'' (in this section referred to as the ''Commission'').

(b) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) consumer access to information about the products and services of the airline industry;

(B) the effect on the marketplace of the emergence of new means of distributing such products and services;

(C) the effect on consumers of the declining financial condition of travel agents in the United States; and

(D) the impediments imposed by the airline industry on distributors of the industry's products and services, including travel agents and Internet-based distributors.

(2) POLICY RECOMMENDATIONS.—Based on the results of the study described in paragraph (1), the Commission shall recommend to the President and Congress policies necessary to—

(A) ensure full consumer access to complete information concerning airline fares, routes, and other services;

(B) ensure that the means of distributing the products and services of the airline industry, and of disseminating information about such products and services, is adequate to ensure that competitive information is available in the marketplace;

(C) ensure that distributors of the products and services of the airline industry have adequate relief from illegal, anticompetitive practices that occur in the marketplace; and

(D) foster healthy competition in the airline industry and the entry of new entrants.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—In carrying out the study authorized under subsection (b)(1), the Commission shall specifically address the following:

(1) CONSUMER ACCESS TO INFORMATION.—With respect to consumer access to information regarding the services and products offered by the airline industry, the following:

(A) The state of such access.

(B) The effect in the 5-year period following the date of the study of the making of alliances in the airline industry.

(C) Whether and to what degree the trends regarding such access will produce benefits to consumers.

(2) MEANS OF DISTRIBUTION.—With respect to the means of distributing the products and services of the airline industry, the following:

(A) The state of such means of distribution.

(B) The roles played by travel agencies and Internet-based providers of travel information and services in distributing such products and services.

(C) Whether the policies of the United States promote the access of consumers to multiple means of distribution.

(3) AIRLINE RESERVATION SYSTEMS.—With respect to airline reservation systems, the following:

(A) The rules, regulations, policies, and practices of the industry governing such systems.

(B) How trends in such systems will affect consumers, including—

(i) the effect on consumer access to flight reservation information; and

(ii) the effect on consumers of the use by the airline industry of penalties and promotions to convince distributors to use such systems, and the degree of consumer awareness of such penalties and promotions.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 voting members and 11 nonvoting members as follows:

(A) 5 voting members and 1 nonvoting member appointed by the President.

(B) 3 voting members and 3 nonvoting members appointed by the Speaker of the House of Representatives.

(C) 2 voting members and 2 nonvoting members appointed by the minority leader of the House of Representatives.

(D) 3 voting members and 3 nonvoting members appointed by the majority leader of the Senate.

(E) 2 voting members and 2 nonvoting members appointed by the minority leader of the Senate

(2) QUALIFICATIONS.—Voting members appointed under paragraph (1) shall be appointed from among individuals who are experts in economics, service product distribution, or transportation, or any related discipline, and who can represent consumers, passengers, shippers, travel agents, airlines, or general aviation.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) CHAIRPERSON.—The President, in consultation with the Speaker of the House of Representatives and the majority leader of the Senate, shall designate the Chairperson of the Commission (referred to in this title as the ''Chairperson'') from among its voting members.

(e) COMMISSION PANELS.—The Chairperson shall establish such panels consisting of voting members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(h) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary of Transportation shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (b)(2).

(k) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

(l) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

TITLE XVII—TRANSPORTATION OF ANIMALS

SEC. 1701. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Safe Air Travel for Animals Act''.

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

Sec. 1701. Short title; table of contents.
Sec. 1702. Findings.

SUBTITLE A—ANIMAL WELFARE

Sec. 1711. Definition of transport.
Sec. 1712. Information on incidence of animals in air transport.
Sec. 1713. Reports by carriers on incidents involving animals during air transport.
Sec. 1714. Annual reports.

SUBTITLE B—TRANSPORTATION

Sec. 1721. Policies and procedures for transporting animals.
Sec. 1722. Civil penalties and compensation for loss, injury, or death of animals during air transport.
Sec. 1723. Cargo hold improvements to protect animal health and safety.

SEC. 1702. FINDINGS.

Congress finds that—

(1) animals are live, sentient creatures, with the ability to feel pain and suffer;

(2) it is inappropriate for animals transported by air to be treated as baggage;

(3) according to the Air Transport Association, over 500,000 animals are transported by air each year and as many as 5,000 of those animals are lost, injured, or killed;

(4) most injuries to animals traveling by airplane are due to mishandling by baggage personnel, severe temperature fluctuations, insufficient oxygen in cargo holds, or damage to kennels;

(5) there are no Federal requirements that airlines report incidents of animal loss, injury, or death;

(6) members of the public have no information to use in choosing an airline based on its record of safety with regard to transporting animals;

(7) the last congressional action on animals transported by air was conducted over 22 years ago; and

(8) the conditions of cargo holds of airplanes must be improved to protect the health, and ensure the safety, of transported animals.

Subtitle A—Animal Welfare

SEC. 1711. DEFINITION OF TRANSPORT.

Section 2 of the Animal Welfare Act (7 U.S.C. 2132) is amended by adding at the end the following:

''(p) TRANSPORT.—The term 'transport', when used with respect to the air transport of an animal by a carrier, means the transport of the animal during the period the animal is in the custody of the carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.''.

SEC. 1712. INFORMATION ON INCIDENCE OF ANIMALS IN AIR TRANSPORT.

Section 6 of the Animal Welfare Act (7 U.S.C. 2136) is amended—

(1) by striking ''SEC. 6. Every'' and inserting the following:

''SEC. 6. REGISTRATION.

''(a) IN GENERAL.—Each''; and

(2) by adding at the end the following:

''(b) INFORMATION ON INCIDENCE OF ANIMALS IN AIR TRANSPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall require each airline carrier to—

''(1) submit to the Secretary real-time information (as the information becomes available, but at least 24 hours in advance of a departing flight) on each flight that will be carrying a live animal, including—

''(A) the flight number;

''(B) the arrival and departure points of the flight;

''(C) the date and times of the flight; and

''(D) a description of the number and types of animals aboard the flight; and

''(2) ensure that the flight crew of an aircraft is notified of the number and types of animals, if any, on each flight of the crew.''.

SEC. 1713. REPORTS BY CARRIERS ON INCIDENTS INVOLVING ANIMALS DURING AIR TRANSPORT.

Section 19 of the Animal Welfare Act (7 U.S.C. 2149) is amended by adding at the end the following:

''(e) REPORTS BY CARRIERS ON INCIDENTS INVOLVING ANIMALS DURING AIR TRANSPORT.—

''(1) IN GENERAL.—An airline carrier that causes, or is otherwise involved in or associated with, an incident involving the loss, injury, death or mishandling of an animal during air transport shall submit a report to the Secretary of Agriculture and the Secretary of Transportation that provides a complete description of the incident.

''(2) ADMINISTRATION.—Not later than 90 days after the date of enactment of this subsection, the Secretary of Agriculture, in consultation with the Secretary of Transportation, shall issue regulations that specify—

''(A) the type of information that shall be included in a report required under paragraph (1), including—

''(i) the date and time of an incident;

''(ii) the location and environmental conditions of the incident site;

''(iii) the probable cause of the incident; and

''(iv) the remedial action of the carrier; and

''(B) a mechanism for notifying the public concerning the incident.

''(3) CONSUMER INFORMATION.—The Secretary of Transportation shall include information received under paragraph (1) in the Air Travel Consumer Reports and other consumer publications of the Department of Transportation in a separate category of information.

''(4) CONSUMER COMPLAINTS.—Not later than 15 days after receiving a consumer complaint concerning the loss, injury, death or mishandling of an animal during air transport, the Secretary of Transportation shall provide a description of the complaint to the Secretary of Agriculture.''.

SEC. 1714. ANNUAL REPORTS.

Section 25 of the Animal Welfare Act (7 U.S.C. 2155) is amended in the first sentence—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) a summary of—

''(A) incidents involving the loss, injury, or death of animals transported by airline carriers; and

''(B) consumer complaints regarding the incidents.''.

Subtitle B—Transportation

SEC. 1721. POLICIES AND PROCEDURES FOR TRANSPORTING ANIMALS.

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

''§ 41716. Policies and procedures for transporting animals

''An air carrier shall establish and include in each contract of carriage under part 253 of title 14, Code of Federal Regulations (or any successor regulation) policies and procedures of the carrier for transporting animals safely, including—

''(1) training requirements for airline personnel in the proper treatment of animals being transported;

''(2) information on the risks associated with air travel for animals;

''(3) a description of the conditions under which animals are transported;

''(4) the safety record of the carrier with respect to transporting animals; and

''(5) plans for handling animals prior to and after flight, and when there are flight delays or other circumstances that may affect the health or safety of an animal during transport.''.

(b) TABLE OF CONTENTS.—The analysis for chapter 417 of title 49, United States Code, is amended by adding at the end of the items relating to subchapter I the following:

''41716. Policies and procedures for transporting animals.''.

SEC. 1722. CIVIL PENALTIES AND COMPENSATION FOR LOSS, INJURY, OR DEATH OF ANIMALS DURING AIR TRANSPORT.

(a) IN GENERAL.—Chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''§ 46317. Civil penalties and compensation for loss, injury, or death of animals during air transport

''(a) DEFINITIONS.—In this section:

''(1) CARRIER.—The term 'carrier' means a person (including any employee, contractor, or agent of the person) operating an aircraft for the transportation of passengers or property for compensation.

''(2) TRANSPORT.—The term 'transport', when used with respect to the air transport of an animal by a carrier, means the transport of the animal during the period the animal is in the custody of a carrier, from check-in of the animal prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.

''(b) CIVIL PENALTIES.—

''(1) IN GENERAL.—The Secretary may assess a civil penalty of not more than $5,000 for each violation on, or issue a cease and desist order against, any carrier that causes, or is otherwise involved in or associated with, the loss, injury, or death of an animal during air transport.

''(2) CEASE AND DESIST ORDERS.—A carrier who knowingly fails to obey a cease and desist order issued by the Secretary under this subsection shall be subject to a civil penalty of $1,500 for each offense.

''(3) SEPARATE OFFENSES.—For purposes of determining the amount of a penalty imposed under this subsection, each violation and each day during which a violation continues shall be a separate offense.

''(4) FACTORS.—In determining whether to assess a civil penalty under this subsection and the amount of the civil penalty, the Secretary shall consider—

''(A) the size and financial resources of the business of the carrier;

''(B) the gravity of the violation;

''(C) the good faith of the carrier; and

''(D) any history of previous violations by the carrier.

''(5) COLLECTION OF PENALTIES.—

''(A) IN GENERAL.—On the failure of a carrier to pay a civil penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which the carrier is found or resides or transacts business, to collect the penalty.

''(B) PENALTIES.—The court shall have jurisdiction to hear and decide an action brought under subparagraph (A).

''(c) COMPENSATION.—If an animal is lost, injured, or dies in transport by a carrier, unless the carrier proves that the carrier did not cause, and was not otherwise involved in or associated with, the loss, injury, or death of the animal, the owner of the animal shall be entitled to compensation from the carrier in an amount that—

''(1) is not less than 2 times any limitation established by the carrier for loss or damage to baggage under part 254 of title 14, Code of Federal Regulations (or any successor regulation); and

''(2) includes all veterinary and other related costs that are documented and initiated not later than 1 year after the incident that caused the loss, injury, or death of the animal.''.

(b) TABLE OF CONTENTS.—The analysis for chapter 463 of title 49, United States Code, is amended by adding at the end the following:

''46317. Civil penalties and compensation for loss, injury, or death of animals during air transport.''.

SEC. 1723. CARGO HOLD IMPROVEMENTS TO PROTECT ANIMAL HEALTH AND SAFETY.

(a) IN GENERAL.—To protect the health and safety of animals in transport, the Secretary of Transportation shall—

(1) in conjunction with requiring certain transport category airplanes used in passenger service to replace class D cargo or baggage compartments with class C cargo or baggage compartments under parts 25, 121, and 135 of title 14, Code of Federal Regulations, to install, to the maximum extent practicable, systems that permit positive airflow and heating and cooling for animals that are present in cargo or baggage compartments; and

(2) effective beginning January 1, 2001, prohibit the transport of an animal by any carrier in a cargo or baggage compartment that fails to include a system described in paragraph (1).

(b) REPORT.—Not later than March 31, 2002, the Secretary shall submit a report to Congress that describes actions that have been taken to carry out subsection (a).

REREFERRAL OF NOMINATION

Mr. WARNER. Mr. President, as in executive session, I ask unanimous consent that the nomination of Gregory A. Baer, of Virginia, to be an Assistant Secretary of the Treasury, vice Richard Scott Carnell, be discharged from the Committee on Finance and referred to the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, OCTOBER 7, 1999

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, October 7. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume debate on the pending Abraham amendment to S. 1650, the Labor-HHS Appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. For the information of all Senators, the Senate will resume consideration of the Labor-HHS Appropriations bill at 9:30 a.m. on Thursday. The pending amendment is the Abraham amendment regarding the needle exchange programs. It is hoped this amendment and the few remaining amendments can be debated and disposed of in a timely fashion so that action on the bill can be completed by tomorrow. I encourage continued cooperation from those Senators who have amendments remaining on the list so that time agreements can be made for their consideration. Rollcall votes will occur throughout the day. As usual, Senators will be notified as votes are scheduled. Following completion of the Labor-HHS Appropriations bill, it is the intention of the leader to resume debate on the Agriculture Appropriations conference report. The Senate may also consider any other conference reports available for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:33 p.m., adjourned until Thursday, October 7, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 6, 1999:

DEPARTMENT OF DEFENSE

CORNELIUS P. O'LEARY, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS, VICE ROGER HILSMAN, TERM EXPIRED.

DEPARTMENT OF STATE

DONALD STUART HAYS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF JUSTICE

DANIEL J. FRENCH, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS, VICE THOMAS JOSEPH MARONEY, TERM EXPIRED.

NOTE: IN THE RECORD OF OCTOBER 5, 1999, THE FOLLOWING NOMINATIONS WERE INADVERTENTLY SHOWN TO HAVE BEEN REPORTED BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY. THEY WERE NOT REPORTED. THE PERMANENT RECORD WILL BE CORRECTED ACCORDINGLY.

PAUL W. FIDDICK, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

ANDREW C. FISH, OF VERMONT, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

EXTENSIONS OF REMARKS

ELECTRONIC COMMERCE CRIME PREVENTION AND PROTECTION ACT

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. CROWLEY. Mr. Speaker, did you know that anyone with access to a computer and a modem could buy or sell firearms and explosives over the Internet with little or no federal regulation? And, did you know that, as a result of this loophole, children and career criminals are illegally purchasing firearms and explosives right now? Unfortunately, obtaining the instruments of violence over the Internet is as easy as ''point, click, ship.''

For far too long, gunfire in our homes, our communities, and in our schools has continued to steal young lives and destroy families. As scenes like Columbine High School and the North Valley Jewish Community Center killing spree continue to haunt America, we must step-up our efforts to protect children from gun violence.

One important step in the process of protecting our children from gun violence is closing the dangerous loophole that allows guns to be purchased from unlicensed dealers over the Internet. To accomplish this, I am introducing the ''Electronic Commerce Crime Prevention and Protection Act.'' This much-needed legislation would ban all sales of firearms, ammunition and explosives over the Internet.

I would like to thank Congressman BRAD SHERMAN, Congressman ROBERT BRADY, Congressman JAMES MORAN, Congressman JOHN LARSON, Congressman MARTIN MEEHAN, Congressman RICHARD NEAL, Congressman ROBERT MENENDEZ, Congressman NANCY PELOSI, and Congressman JOSEPH HOEFFEL for joining me as original cosponsors of this important legislation.

Mr. Speaker, I urge my colleagues to cosponsor my legislation to ensure that the Internet remains a wonderful mechanism for commerce, communication and learning, and not a means for obtaining the tools of violence.

INDIAN HUMAN RIGHTS ACTIVISTS ISSUE NEW REPORT ON ENFORCED DISAPPEARANCES, ARBITRARY EXECUTIONS, AND SECRET CREMATIONS IN INDIA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. BURTON of Indiana. Mr. Speaker, the Committee for Coordination on Disappearances in Punjab recently issued a new report on enforced disappearances, arbitrary executions, and secret cremations of Sikhs in Punjab. It documents the names and addresses of 838 victims of this tyrannical policy. The report is both shocking and distressing.

The Committee is an umbrella organization of 18 human rights organizations under the leadership of Hindu human rights activist Ram Narayan Kumar. The report discusses ''illegal abductions and secret cremations of dead bodies.'' In fact, the Indian Supreme Court has itself described this policy as ''worse than a genocide.''

The report includes direct testimony from members of the victims' families, other witnesses, and details of these brutal cases. The human rights community has stated that over 50,000 Sikhs have ''disappeared'' at the hands of the Indian government in the early nineties. How can any country, especially one that claims to be the ''world's largest democracy,'' get away with so many killings, abductions and other atrocities? Will the Indian government prosecute the officials of its security forces who are responsible for these acts? Will the Indian government compensate the victims and their families?

If America can compensate the Japanese victims of the internment camps during World War II, why can't India compensate the families whose husbands, sons, wives, or daughters have been murdered? Murder is a lot more serious than internment, and these acts are much more recent.

The Council of Kahlistan recently issued a press release on the Committees's report. I am placing that release in the CONGRESSIONAL RECORD for the information of my colleagues.

NEW REPORT EXPOSES ENFORCED DISAPPEARANCES, ARBITRARY EXECUTIONS, SECRET CREMATIONS OF SIKHS BY INDIAN GOVERNMENT IDENTIFIES VICTIMS OF GENOCIDE BY NAME

WASHINGTON, D.C., September 15, 1999—The Committee for Coordination on Disappearances in Punjab, led by Hindu human-rights activist Ram Narayan Kumar, has issued an interim report entitled ''Enforced Disappearances, Arbitrary Executions, and Secret Cremations'' which exposes secret mass cremations of Sikhs by the Indian government.

The report contains a 21-page list of 838 victims who were identified by name and address. This is a very preliminary report. Three of India's most respected human rights group issued a joint letter in 1997 stating that between 1992 and 1994, 50,000 Sikhs were made to disappear by Indian forces. They were arrested, tortured, and murdered by police, then their bodies were declared ''unidentified'' and cremated. The Indian Supreme Court described the situation as ''worse than a genocide.''

More than 250,000 Sikhs have been killed since 1984. Over 200,000 Christians have been killed since 1947 and over 65,000 Kashmiri Muslims have been killed since 1988. Thousands more languish in prisons without charge or trial, according to Amnesty International. Last month, 29 Members of the U.S. Congress wrote to the Prime Minister of India demanding the release of these political prisoners.

The report makes reference to the police kidnapping and murder of human-rights activist Jaswant Singh Khalra in 1995. Khalra ''released some official documents which established that the security agencies in Punjab had been secretly cremating thousands of dead bodies labelled as unidentified,'' the report noted. ''Khalra suggested the most of these cremations were of people who had earlier been picked up in the state on suspicion of separatist sympathies,'' according to the report.

''In September 1995, it was Khalra's turn to disappear; he was kidnapped from his Armristar home by officers of the Punjab police.'' In October 1995, the police murdered Mr. Khalra. Despite an order of the Supreme Court, none of the police officers involved has been brought to justice. The report also cited an official inquiry's findings of ''flagrant violation of human rights on a mass scale.''

''This report shows that for Sikhs there are no human rights in India,'' said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. ''The genocide by the Indian Government shows Sikhs that there is no religious tolerance in India and India will never allow Sikhs or other religious minorities to exercise their religious or political rights,'' he said.

''If India is the democracy it claims to be, then why not simply hold a plebiscite on independence in Punjab, Khalistan? Dr. Aulakh asked. ''Instead of doing the democratic thing and allowing the people of Punjab, Khalistan, of Kashmir, of Christian Nagaland to vote on their political status, as America has repeatedly allowed Puerto Rico to do and Canada has allowed Quebec to do, the Indians try to crush the freedom movements by killing massive numbers of people in these minority nations,'' he said. ''Democracies don't commit genocide.''

CONFERENCE REPORT ON H.R. 1906, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

SPEECH OF

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1999

Mr. SKEEN. Mr. Speaker, as Chairman of the Appropriations Subcommittee on Agriculture I fully expect the Secretary, in conjunction with the International Arid Lands Consortium, to expand efforts in the area of arid lands research, specifically in the areas of water, grazing and drought mitigation programs applicable to arid and semi-arid regions. Not only will an expansion of these efforts prove valuable to America's farmers and ranchers, the employment of the existing scientific/political relationship between the Department, the International Arid Lands Consortium, Israel and Jordan could prove highly beneficial to the Middle East peace process as well.

U.N. SECRETARY GENERAL KOFI ANNAN DISCUSSES THE INTERNATIONAL BUSINESS COMMUNITY'S SELF INTEREST IN HUMAN RIGHTS AND GLOBAL VALUES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. LANTOS. Mr. Speaker, standing at the dawn of the new millennium, we have an incredible opportunity to create a more peaceful, more humane, and more orderly world. We are entering a new era in which previously ignored social issues must be addressed. In today's increasingly globalized world, we have seen remarkable advances in trade and technology. The time has come, however, when the new global economy must embrace social responsibility.

Mr. Speaker, the Secretary General of the United Nations, my dear friend Kofi Annan, addressed a number of these issues in an important message last month. He discussed the fundamental partnership between business and human rights and the importance of having international values and principles to guide our global economy. The United Nations is an extremely important element of our nation's foreign policy and it plays a fundamental role in enhancing respect for the rights of women and men around the globe as well as enhancing the value of human life.

The Secretary General addressed these issues in a message to the Workshop ''Today and Tomorrow: Outlook for Corporate Strategies'' which was organized by the Ambrosetti firm and was held this September in Cernobbio, Italy, under the leadership of my friend Alfredo Ambrosetti.

Mr. Speaker, the message of the Secretary General to the conference is most appropriate to consider as we face the new millennium. I offer the message of Secretary General Kofi Annan to be placed in the RECORD, and I urge my colleagues to give it serious and thoughtful attention.

[Message of Secretary General Kofi Annan to the Workshop]

TODAY AND TOMORROW: OUTLOOK FOR CORPORATE STRATEGIES

It gives me great pleasure to convey my greetings to all who have gathered for the Villa d'Este workshop, which this year celebrates its 25th anniversary. Congratulations on this milestone.

You have gathered to examine a global predicament that is deeply ambivalent. Peace spreads in one region while violence rages in another. Unprecedented wealth coexists with terrible deprivation, as a quarter of the world's people remain mired in poverty. Through it all we can see the contours of a new global fabric taking shape. The globalization of markets, technology, finance and information is defining new realities, re-shaping our notions of sovereignty and challenging us to reconsider many of the assumptions that have guided policy-making until now.

As you know globalization is under intense pressure. And the multilateral trading system is in the line of fire. The problem is not with trade or transnational companies or market per se; the trading system is one of the great success stories of the past half century. Rather the problem seems to be that while so much has been done to make the trading system the success it is, other urgent issues—such as safeguarding the environment, protecting human rights and ensuring labour standards—have failed to attract similar attention.

The result is a serious imbalance on the international agenda. We have a global trading system with potentially strong governance and a strong institution—the World Trade Organization. Strong, if universal and if the most powerful countries comply with the rules. Strong, also, if we avoid saddling the trade regime with a load it cannot bear conditionalities—and instead build bridges between trade and environment, between trade and labour, between trade and human rights. We need to strengthen the pillars of global governance in these areas. After all, a bridge cannot rest on only one pillar.

It was with this in mind that I proposed, earlier this year at the World Economic Forum in Davos, a ''Globla Compact'' between the United Nations and the world business community. The Compact asks the international business community to advocate for a stronger Unite Nations. It asks individual businesses to protect human rights within their sphere of influence, support the abolition of child labour, adopt a precautionary approach to environmental challenges and take other such steps which, of course, also make good business sense. The Compact offers a practical way forward to reconciling one of the key questions in the debate on globalization: how to sustain open markets while meeting the soci-economic needs of societies. It envisages business doing what it does best—creating jobs and wealth—while rooting the global market in universal values and giving the global market more of a human face.

It may not seem fair that business should be called upon to undertake such initiatives, but in today's globalizing world, economic power and social responsibility cannot be separated. This issue—and in particular the risk of protectionism and other unwelcome interventions—will not go away unless business is committed, and seen to be committed, to global corporate citizenship. Just as national markets reflect the values, laws and rules of a given society, so must the new global economy be guided by an international consensus on values and principles.

I have been speaking of ''business'' as if it were some monolithic presence in the world economy. In the end we are talking to individual businessmen and businesswomen with the power to influence the world for the better. Let us remember that the global markets and the multilateral trading system we have today did not come about by accident. They are the result of enlightened policy choices. If we want to maintain them in the new century, all of us —governments, corporations, nongovernmental organizations, international organizations—have to make the right choices now. We have an opportunity to usher in an age of global prosperity comparable to that enjoyed by the industrialized countries in the decades after the Second World War. We will tip the scales to the positive only if we work together and, in particular, only if the leaders amongst us step forward and do their part. In that hopeful spirit, please accept my best wishes for a successful workshop.

CONCERNING PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION (WHO)

SPEECH OF

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 1999

Mr. HOFFEL. Mr. Speaker, I rise to speak in favor of Taiwan's participation in the World Health Organization. While I have strong feelings on the issue of Taiwan's status in the world, I know there are some who disagree with me. On the issue of the health of the Taiwanese people, I don't think there can be any disagreement. Taiwan should have full participation in the World Health Organization.

As this legislation states: ''Good health is a basic right for every citizen of the world and access to the highest standards of health information and services is necessary to help guarantee this right.'' Health risks do not recognize political boundaries. Unfortunately, politics has kept Taiwan from participating in WHO activities and other international organizations and the effects of this policy have had serious repercussions.

The World Health Organization was unable to help Taiwan with a viral outbreak which killed scores of Taiwanese children and infected more than 1,000 Taiwanese children in 1998.

More recently, Taiwan was struck by an earthquake which did substantial damage to the island. The latest estimates are that just over 2,000 people have been killed and about 100,000 are homeless. In the wake of this disaster, I was shocked to read news reports about the United Nations' response. According to one report, instead of immediately harnessing its resources and heading to Taiwan to help with the relief effort, the United Nations instead sought approval from China before sending United Nations relief workers to the scene of the disaster. If this is true, lives were again needlessly put at risk.

Ensuring the health of the people of Taiwan is a commendable goal and it is time that we put their health above politics. I commend the sponsor of the legislation, Mr. BROWN, and I urge my colleagues to support the bill.

IN CELEBRATION OF THE 25TH ANNIVERSARY OF THE BLACK COWBOYS PARADE IN OAKLAND, CALIFORNIA

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Ms. LEE. Mr. Speaker, I rise in celebration of the 25th Anniversary of the Black Cowboys Parade held every year in Oakland, California since 1974. The parade commemorates the contributions made by African Americans and other ethnic groups to the development of the American West.

African Americans, primarily from Louisiana, Texas and Arkansas, poured into California to build ships during World War II. These states were all ''horse country'' where African Americans had raised and trained horses. Northern California could therefore easily support the

concept of a Black Cowboys parade. Some of the original organizers and riders were Lonnie Scoggins, Booker Emery, and Mr. Wright (now in his nineties). Other cities in Oklahoma and Texas have parades celebrating Black horsemen and horsewomen, but the City of Oakland has hosted the longest continuously staged celebration.

Blacks were cowboys before they were freed from slavery. Before California even became a state, they worked on cattle ranches in southern California. At the height of the cattle driving days, it is estimated that a fourth of all cowboys were black. The Buffalo Soldiers were proud and capable men who got the toughest and longest assignments while serving on the frontier. Although they have since been criticized for fighting Indians, these largely illiterate men were recruited starting in 1866 immediately after the end of the Civil War. By 1898, they were a disciplined fighting force who saved Theodore Roosevelt on San Juan Hill in Cuba during the Spanish American War.

This parade rights the portrayal of African Americans from history and media presentations by restoring the pride of black manhood. Northern California and Bay Area horsemen and horsewomen show that blacks can ride today as well and that this history is alive. This is also important to Mexican Americans, Chinese Americans and Native American as children of every background can reclaim their history and have pride in their special contribution to the settlement of the West.

This 25 year tradition of the Black Cowboys Parade is one of the ongoing and visible efforts to restore pride in young blacks and other youngsters. We salute the work of organizations such as the Northern California Black Horsemen Association, the Black Cowboys Association and Wildcat Canyon Ranch Youth Program for their ongoing programs to educate and honor the legacy of the black cowboy today.

TRIBUTE TO RODNEY HERO

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. UDALL of Colorado. Mr. Speaker, I wish to recognize and congratulate one of my constituents, Rodney Hero. Mr. Hero is a Professor at the University of Colorado, who was recently presented with the Woodrow Wilson Foundation Award for his book, 'Faces of Inequality: Social Diversity in American Politics'.

This distinguished annual award honors the author of the premier book published in the United States regarding government, politics or international affairs. Presented by the American Political Science Association, the Woodrow Wilson Foundation Award is one of the most prestigious awards in political science scholarship.

In his award-winning book, Professor Hero offers a unique social diversity theory regarding race and ethnicity in American politics. He argues that race and ethnicity significantly affect politics in all the states, not just the states with a high minority population. Professor Hero's social diversity theory challenges a 35-year-old theory regarding politics in our states.

Mr. Speaker, later this week, I will be visiting with Professor Hero and his introduction to American Politics class. I look forward to the opportunity to join the Professor and his class for a spirited discussion on the issues facing our nation. I would like to thank Rodney Hero for the contribution he has made to the world of academia. His contribution truly exemplifies the academic commitment of Colorado's universities and colleges.

ALEXANDRIA, VA—250 YEARS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. MORAN of Virginia. Mr. Speaker, I submit for the record two resolutions in recognition of the 250th Anniversary of the City of Alexandria, Virginia.

As Alexandria's former mayor, I am now proud to represent the city as part of the Commonwealth's 8th Congressional District. This historic seaport city, an early and continuing center of political, business and social life, has drawn from its rich cultural heritage up until the present day, and in so doing has become one of the most frequently visited tourist destinations in the nation today with 1.2 million visitors annually.

To mark this special anniversary year, Alexandria has hosted hundreds of additional cultural events, concerts, symposia, tours and exhibitions, and residents and visitors alike have benefited from the valuable history lessons this great city is able to provide.

I'm sure my colleagues here today will join me in congratulating Alexandria on its long and distinguished history.

May the next 250 years be as remarkable for this very fine American city.

PROCLAMATION

Whereas, the site of Alexandria was occupied for several thousand years by Native Americans; and

Whereas, Captain John Smith and a party of explorers from Jamestown first visited the site of Alexandria in 1608; and

Whereas, a tobacco warehouse was established in 1730 at the foot of Oronoco Street in what is now Alexandria, and a settlement informally called Hunting Creek Warehouse grew up around the warehouse; and

Whereas, a group of Scottish merchants tried to name the area Belhaven, after Scottish patriot John Hamilton, Baron Belhaven, in 1749; and

Whereas, the Virginia House of Burgesses and Council, upon petition of other local residents, voted in May 1749 to establish a new town called Alexandria, named after the Alexander family on whose land the town was to be built; and

Whereas, Governor Gooch convened the House of Burgesses and Council in the Council Chamber on May 11, 1749, and gave his assent to the bill establishing the new town.

Now, therefore, I, Kerry J. Donley, Mayor of the City of Alexandria, Virginia, and on behalf of the Alexandria City Council, do hereby proclaim May 11, 1999 to be the 250th anniversary of the creation of Alexandria, Virginia.

In witness whereof, I have hereunto set my hand and caused the Seal of the City of Alexandria to be affixed this 11th day of May 1999.

GENERAL ASSEMBLY PROCLAMATION

WHEREAS, Capt. John Smith and a party of explorers from Jamestown first visited the site that was to become Alexandria in 1608; and

WHEREAS, a tobacco warehouse was established at the foot of Oronoco Street in what is now Alexandria in 1730, and a settlement informally called Hunting Creek Warehouse grew up around the warehouse; and

WHEREAS, a group of Scottish merchants tried to name the area Belhaven in 1749; and

WHEREAS, the Virginia Assembly, upon petition of other local residents, voted on May 11, 1749, to establish a new town called Alexandria, named after the Alexander family on whose land the town was to be built; and

WHEREAS, the town was created by local landowners and Scottish merchants, with the first auction of town lots occurring on July 13–14, 1749; and

WHEREAS, Alexandria was the site of the adoption of the Fairfax Resolves in July of 1774 and the home town of Commander-in-Chief of the Continental Army and first President of the United States George Washington, and of author of the Virginia Bill of Rights and father of the U.S. Bill of Rights George Mason; and

WHEREAS, Alexandria has been the home town of many people prominent in our nation's history, including Gens. Light Horse Harry Lee and Robert E. Lee, former President Gerald R. Ford, U.S. Supreme Court Justice Hugo Black, General Harold Spaatz, John L. Lewis, several Lords Fairfax, composer Richard Bales, musicians Jim Morrison and Mama Cass, and many Cabinet officers over the last 250 years; and

WHEREAS, Alexandria was ceded to the United States to form part of the District of Columbia in 1791 and at the wish of its citizens retroceded to Virginia in 1846; and

WHEREAS, Alexandria was the site in 1939 of a sit-in demonstration at the Alexandria Public Library, in which the participants demanded equal rights of use for black and white customers; and

WHEREAS, Alexandria is the site of the Alexandria Academy, which had among its three schools the Free School, established by George Washington's contribution of 50 annually to educate 20 boys and girls whose parents could not pay tuition, and which was the site of a school for children of freedmen from 1812 to 1823; and

WHEREAS, Alexandria is the home of institutions of higher learning including a branch of Virginia Tech and the Northern Virginia Community College; and

WHEREAS, Alexandria has many noteworthy museums, historic sites, and tourist attractions, including the internationally-renowned Torpedo Factory Arts Center, one of the highest concentrations of 18th and early 19th century buildings in the nation, and a rich and active cultural life; and

WHEREAS, Alexandria retains the prominent role it has had since 1749 as a transportation center, by sea, road, and rail; and

WHEREAS, the City of Alexandria will mark its 250th anniversary throughout 1999 with a year-long series of diverse programs, activities, and public events; and

WHEREAS, all residents of Alexandria can look back with pride on their city's rich history and forward with anticipation to an exciting and challenging future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly commend the City of Alexandria on the occasion of its 250th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hon. Kerry J. Donely, Mayor of the City of Alexandria, as an expression of the General Assembly's congratulations and best wishes for a glorious anniversary celebration.

100TH ANNIVERSARY OF THE GHENT BAND

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. SWEENEY. Mr. Speaker, I rise to congratulate Ghent Band on their 100th Anniversary in entertaining the communities of Columbia County, located in the heart of the 22nd Congressional District, which I proudly represent.

Founded in 1899 by 15 members, the Ghent Band continues to make history while other bands in New York have become history. Inspired by nationally touring bands like John Philip Sousa, the original 15 members gathered old, second hand instruments and began rehearsing weekly at the Old Ghent School House. To this day, the bank plays on, serving as Columbia County's only full-fledged village band.

Mr. Speaker, for a full century the Ghent Band's music has filled the hearts of the young and old, creating lasting memories at the many parades and concerts at which they play. The Ghent Band holds a special place in my own heart as they were present at the inauguration celebrating my swearing in to the House of Representatives.

Given the diversity of age and background of the band's members, as well as their strong ties to the local community, I have no doubt that the Ghent Band will continue on for an additional 100 years.

Mr. Speaker, the Ghent Band is America at its best, representing all that is good in this nation. I wish its members and their families the best as they celebrate 100 years of serving and entertaining the Village of Ghent.

FAIR CARE FOUNDATION CALLS ATTENTION TO DANGERS OF HMO TAKEOVERS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. STARK. Mr. Speaker, as the conglomeration and monopolization of American health care continues, State Insurance regulators must do a better job of questioning the quality of plans entering their states.

I thought the following article from the September 18, 1999 issue of the Delaware News Journal by former utilization review nurse Mary Ellen Gaspard and A.G. Newmyer, head of the Fair Care Foundation (an HMO watchdog group), made some excellent points about the ''quality danger'' facing Delaware.

[From the News Journal, Sept. 18, 1999]

BLUE CROSS TAKEOVER NEEDS SKEPTIC'S EYE

(By Mary Ellen Gaspard and A.B. Newmyer III)

Few Americans can name their state insurance regulator. The majority of regulators are appointed and remain largely invisible. By reputation, they care more about the health of insurers than the health of the public.

Delaware may be different. We've never met Insurance Commissioner Donna Lee Williams. But like the minority of regulators who are elected rather than appointed, she has a reputation for caring about consumers rather than for genuflecting before insurance executives. Now she has a real opportunity.

Hearings begin Tuesday on the plan by CareFirst—a Blue Cross plan based in Maryland—to take over the Delaware plan. The commissioner must determine, among other things, whether the deal would hurt Delaware policyholders.

In our view, CareFirst has redefined predatory behavior by health insurers. Perhaps the company's claims handlers were trained to echo the mantra, ''Just say no.'' Cases handled by volunteers at the Fair Care Foundation, in helping patients in CareFirst's market, suggest that the delays and denials don't even pass the laugh test. Sadly, there is a mean-spiritedness evident in the treatment of the sick and their families that CareFirst management has taken to new heights.

We can't imagine why Donna Lee Williams would want to put Delaware's 200,000 Blues subscribers under CareFirst's heel. Like their claims handlers, she should just say no.

CareFirst, of course, disagrees. With a sensible regulatory structure in CareFirst's back yard, the facts would be apparent to Delaware regulators. But Steve Larsen, the appointed insurance commissioner in Maryland, has a reputation among consumer groups as being affable and ineffective. When CareFirst took over the Blue Cross plan in Washington, questions arose concerning whether Larsen had evaluated the Maryland plan's treatment of policyholders. His so-called market conduct study was reduced to one sentence.

That's one more sentence of oversight than the D.C. regulator could muster. At hearings on the proposed merger, it became clear that the Washington insurance commissioner had never conducted a market study of the Blues during all the years that his office had jurisdiction.

Delaware should just say no pending an investigation that is truly independent and thorough. We've seen no indication that Maryland or Washington regulators are capable of either. Their pre-merger hearings were a pro-forma joke. After consumers sued an appeals court ruled that the Blues had cozied up to the regulator in illegal ex-parte sessions, where they re-wrote conditions of the merger.

The proposed Blues merger in Delaware is complicated. CareFirst has to call the merger an ''affiliation'' because under the law, a merger would be a ''conversion'' of the nonprofit assets of the Delaware plan. That would require that the Delaware assets be set aside for health care of residents in the state. But CareFirst wants the money. So the architecture of the deal is intentionally opaque. Delaware will effectively lose all local control of its Blue Cross plan. We suspect the results won't be pretty.

Donna Lee Williams has a vital opportunity. If the state chooses to wink at the predatory practices of CareFirst, then our hearts go out to the 200,000 Blue Cross subscribers in Delaware.

TECHIES DAY

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. LARSON. Mr. Speaker, as Congress continues to debate next year's budget, America continues to face two mounting problems: a growing information technology worker shortage, and a persisting ''digital divide'' between the information rich and the information poor.

Reports estimate that there are approximately 350,000 unfilled technology jobs available in America, a shortage that threatens the future growth of the sector that is responsible for driving America's unprecedented economic success. Clearly, the demand for highly-skilled information technology workers vastly outweighs the supply.

Further confirmation of this problem came in the Department of Commerce's July report entitled, ''Falling Through the Net,'' which highlighted a persisting ''digital divide'' characterized by a disparity of race, gender, wealth, and geography.

It is, thus, with the intention of focusing public attention on these two problems, that I lend my support today to the first national ''Techies Day'' being held today. Its goal is to reverse these trends by inspiring more of America's youth to enter science and technology fields.

To mark this day, the Association for Competitive Technology, an alliance of Information Technology businesses, will bring technology professionals to the Kids Computer Workshop in Washington, D.C., an after-school technology program that works with underserved kids in the District. By showing youth that technology careers are within their reach, these ''techies'' will bridge the gap for kids who find themselves on the wrong side of the ''digital divide'' and begin to reduce America's information technology workforce deficit.

Mr. Speaker, if the private sector is recognizing its role in bridging the gap between the information ''haves'' and the ''have-nots,'' I believe Congress should recognize its role too. It is my hope that through efforts such as Techies Day, Congress will realize that it can, and should, make a difference.

REST OF THE TRUTH IN TELEPHONE BILLING ACT OF 1999

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. MARKEY. Mr. Speaker, I rise to introduce the ''Rest of the Truth in Telephone Billing Act of 1999.'' The title of the bill reflects the fact that some of the ''truth in telephone billing'' has already been proposed in a bill by two of my esteemed Commerce Committee colleagues, Chairman BLILEY and Telecommunications Subcommittee TAUZIN. I offer the ''rest of the truth'' to point out that a listing of fees and taxes only provides half the story. The other half of the story is the subsidies in the telecommunications marketplace, which I believe need to be made just as explicit on a consumer's bill as the fees and taxes in order to fully inform consumers of what they do and do not pay for when they subscribe to telecommunications services.

Mr. Speaker, the telecommunications marketplace is rife with such subsidies. Many of these subsidies are quite noble in intention and help to pay for affordable telecommunications service for the poor and for rural consumers. Yet many of these subsidies reflect a historic monopoly marketplace and should be revisited as the marketplace changes. For instance, some of these subsidies may still be

needed and there are some which ought to be adjusted (or even eliminated) to reflect a more competitive marketplace.

The ''truth,'' Mr. Speaker, is that many consumers in America today pay too much to support a bloated subsidy system that was designed to support inefficient monopoly-provided service. As efficiencies arrive in the marketplace due to technological changes and the competitive entry of new providers, I believe that many subsidized services could be provided at lower cost, and therefore less subsidy, than previously provided.

Providing subsidies sufficient to keep costs low in rural America and for the inner city poor, or to hook up schools and libraries, ought to be done in a manner that reflects the actual costs of providing the service. In order to ensure that we give consumers the rest of the truth in telephone billing, I suggest in the legislative proposal I am offering today, that we insist that both the fees and taxes AND the subsidies be made explicit for consumers and listed on their bills.

I suggest that we give consumers the full story. Consumers should know when they're paying $8 in fees or $18 in taxes. They should also know whether they're simultaneously receiving (or paying) a hitherto implicit subsidy to the tune of $2 or $200. I look forward to working with Chairman BLILEY and Chairman TAUZIN on their legislative proposal and to discussions with our other colleagues—both urban and rural—on how we can better ascertain the true costs, true taxes, true fees, and the true subsidies embedded in the telecommunications bills that consumers pay monthly.

THE NETIZENS PROTECTION ACT OF 1999

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to announce the introduction of the Netizens Protection Act of 1999. This legislation is carefully tailored to protect consumers and Internet Service Providers (ISPs) from the costs and inconvenience of unsolicited e-mail.

My bill allows Internet Service Providers (ISPs) to take legal action against someone who uses their equipment or facilities—without their permission—to initiate the bulk transmission of unsolicited electronic messages. Equally important, it would also permit consumers to take action against someone who sent them unsolicited e-mail, so-called spam.

The bill is based on a simple principle of fairness: consumers should not have to pay for unwanted messages and neither should their ISP. Spam is not just a nuisance that can be cured by the judicious use of the delete key. Spam literally forces you to pay for the costs of some other person's advertisement—it is like getting a piece of junk mail and then having to pay for the cost of the stamp. Spam exposes you to dangerous viruses that can damage files or harm computer hardware. Spam often consists of illegal pyramid schemes and frequently contains illegal child pornography.

Moreover, even if an Internet user is not paying for the additional time online to retrieve unwanted mail, they are still being charged a higher rate by their ISP for filter services and larger band-widths to combat ''junk e-mail.'' Unwanted e-mail is costly to both the provider and consumer. The problem is that unlike regular junk mail, where the sender pays for the costs, spam shifts the costs from the sender to the recipient.

My legislation would require anyone sending an unsolicited electronic message to provide a name, a physical mailing address, and the electronic mail address of the person who initiated the message, along with a method by which the recipient of the message could contact the transmitter of the electronic mail to request that no further messages be sent. If someone was sent unsolicited e-mail from someone they contacted to request no further mail be sent, they could pursue legal action to recover treble damages.

Along with empowering the consumer to take action against spam, my bill also allows ISP's to seek legal remedies if someone violates their policies against unsolicited electronic mail messaging. Additionally, ISP's would be required to explain their unsolicited e-mail policies in simple terms so spammers could be forewarned and users could make an informed decision about what ISP to use, as well as whether they wanted unsolicited e-mail blocked. Consumers would and should be able to decide whether they want to receive unsolicited e-mail. My bill does that. Furthermore, the consumer would be able to take legal action if a spammer did not respect their wishes under the Netizens Protection Act.

The Netizens Protection Act is directed at the big spammers who tie-up networks with thousands upon thousands of messages. It would not go after someone who just sent a few messages either inadvertently or even intentionally. Language in my bill would allow someone to send up to 50 identical or substantially similar messages to recipients within a seven day period.

My legislation would also not interfere with or affect direct e-mail advertising or marketing. All avenues of legitimate direct marketing would remain. If any previous business relationship existed between the e-mailer and the e-mail recipient, my legislation would not affect the e-mail transaction. For example, if someone made a purchase at a retail store, a business relationship would exist, so that retailer could send e-mail updates to that customer and still maintain compliance with the Netizens Protection Act. Indeed, I believe that unless legislation is enacted to protect consumers from spam, it will discourage the expansion of Internet business and commerce.

HONORING JANICE JAMES

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mrs. NORTHUP. Mr. Speaker, several weeks ago I had the honor to meet with Janice James, the Kentucky Teacher of the Year. In light of constant stories about the crisis in our nation's schools, it is important to recognize the dedication and outstanding achievements of our teachers. Ms. James serves as the perfect example. It is my honor to pay tribute to someone who has made such a difference to so many children.

Janice James has had a distinguished career as a primary teacher at Price Elementary School in Louisville, Kentucky for 27 years. As part of her teaching philosophy she provides her students with numerous hands-on activities to keep them fully engaged. Ms. James also encourages her students to explore the process of learning by thinking out loud and by pushing them to find multiple solutions to problems. I was particularly impressed by her creative way to encourage students to think more broadly: she hands them a pair of rose-colored glasses every time she wants them to think in a different way.

Janice James has also instilled a sense of leadership in her students through their participation in the Price Leaders of Today program. Students are addressed by key leaders in the Louisville community and are inspired to become leaders and thinkers themselves. Janice James is a teacher who knows how to get the job done. She knows it takes hard work, it takes flexibility, and it takes a commitment to each child. I was proud to hear that Janice James supports what this Congress is trying to do—give schools and teachers the ability to make the choices which best reflect their students needs. We are all in agreement that such changes will help improve education—for Janice James and her students.

Ms. James' remarkable contribution to the field of education deserves our respect and our gratitude. Again, I offer my congratulations to Janice James for this outstanding achievement.

DISTRICT JUSTICE PIERANTONI HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Honorable Fred Pierantoni, III, the Justice of Magisterial District 11–104 in my Congressional District and a good friend of mine. Justice Pierantoni will be honored as ''Person of the Year'' at the 22nd annual Columbus Day Banquet of the Italian American Association of Luzerne County. I am pleased and proud to have been asked to participate in this event.

District Justice Pierantoni, the son of Fred and Betty Pierantoni of Dupont, is a graduate of Pittston Area High School, Wilkes University, and Temple University School of Law. He served as an Assistant District Attorney for Luzerne County and was the senior trial assistant and chief juvenile prosecutor for that office.

First elected District Justice in 1991, Justice Pierantoni is active in many professional and community activities. He is a member of both the Pennsylvania and American Bar Associations. He chairs the prestigious Pennsylvania Supreme Court committee that is charged with amending and formulating rules to be followed by District Justices statewide. Justice Pierantoni is the former Chair of the Publications Committee of the Pennsylvania Special Court Judges Association. He is a member of the Luzerne County District Justice Executive Commission, the Wilkes-Barre Law and Library Association Executive Committee, and the Luzerne County Domestic Violence Task

Force. He is legal advisor to many non-profit volunteer and youth groups throughout the area.

District Justice Pierantoni is active in the community as well, having held a seat on the Pittston Chamber Board of Directors, and several cabinet posts in the Hughestown Lions organizations. He is a member of the Board of Directors of Holy Mother of Sorrows Church in Dupont. Justice Pierantoni is Parliamentarian of the Italian American Association of Luzerne County and a member of the Fraternal Order of Eagles, Polish American Citizens Club, and St. John's Lodge. He lectures for Marywood College, Luzerne County Community College, and the Luzerne County District Attorney's Office.

Mr. Speaker, Fred Pierantoni is a dedicated professional, committed to his community and the justice system in Luzerne County. I applaud the Italian-American Association's choice of this year's honoree and am pleased to join with them in honoring this fine Pennsylvanian. I extend my sincere best wishes to Justice Pierantoni as he accepts this prestigious award.

TRIBUTE TO THE LATE WILLIAM ''CHUCK'' EVERS

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. SHIMKUS. Mr. Speaker, I rise before you today in memory of my friend, Mr. William ''Chuck'' Evers, who was born June 13, 1945 in Alton, Illinois, and died Sunday, September 12, 1999.

Chuck practiced law in Collinsville, Illinois for twenty years. He was active in our community and generous in sharing his knowledge of the law. Those who agreed and disagreed with him almost always re-evaluated their positions after speaking with him. This role was very healthy for all levels of government as it greatly enriched the public debate.

Chuck Evers touched many lives as an active citizen of Collinsville. He is survived by his wife, Lynda nee Vandewater, daughter, Caren Evers, son, W. Clark Evers, and mother, Dorothy Mae nee Gericke Evers.

Collinsville and I will remember Mr. Evers for his great contributions to the community. He will be forever cherished for his commitment; first to his family and faith, and then to his country and to his work.

HONORING THE 50TH ANNIVERSARY OF THE WOOD RIVER TOWNSHIP HOSPITAL

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. COSTELLO. Mr. Speaker, I rise today in honor of the 50th Anniversary of the Wood River Township Hospital.

As we near the end of the millennium, I ask my colleagues to join me in celebrating the history of the small towns and cities which have made a commitment to better health care in their own communities. This past summer my district celebrated the 50th anniversary of Wood River Township Hospital, with reflection on its vital role in our region.

The Wood River Township Hospital opened its doors to the public on August 1, 1949 with great fanfare. A referendum to build a public hospital had passed three years earlier in a landslide margin of 4,049 votes for to just 270 against. Once passed, plans for the community hospital quickly commenced with the architectural designs of Jamieson & Spearl, built in a year by Brunson Construction Co.

The town's enthusiasm for their new hospital was enhanced by the respect accorded to the patients of wood river township Hospital. The hospital staff today still proudly recall their first doctor, Harry S. Mendelsohn, M.D., first patient, Anna Westbrook, and first baby, Randall Charles Harmon. Today, more than 14,000 babies have been born there.

Remarkably, the Wood River Township Hospital, is well known throughout the state of Illinois for being the site of other significant ''firsts'' in the world of health care. It was the first hospital in the state of Illinois to be built under a 1945 state law, which authorized townships to levy taxes for the construction, operation and maintenance of hospitals. Additionally, it was the first hospital in Illinois to give chiropractic physicians privileges, as well as the first to have paramedic-staffed ambulances.

Every community is marked by the institutions that serve them, and Wood River is no different. The Wood River Township Hospital's devotion to patients and commitment to community allows us to see the town as a leader in progressive ideas built on a foundation of mutual respect.

As the 20th Century ends and the beginning of the new millennium approaches, Wood River Township Hospital reminds us of our nation's heritage. As they did, 50 years ago, Wood River officials plan to bury a time capsule to honor the community's values and achievements. In this they will show that while the advances in technology made each day continue to fortify our nation's capabilities, it is the principal of caring in which our future generations may find inspiration.

Mr. Speaker, I ask my colleagues to join me in recognizing Wood River Township Hospital in commemoration of its 50th Anniversary.

CARMEN COSENTINO WINS FLORICULTURE HALL OF FAME AWARD

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. WALSH. Mr. Speaker: Today I am proud to commend one of my constituents and a very good personal friend, Mr. Carmen Cosentino. Last week the Society of American Florists recognized the achievements of outstanding individuals in the floral industry and gave its highest honor, induction into the Floriculture Hall of Fame, to Carm Cosentino.

The purpose of the Floriculture Hall of Fame is to honor men and women who have made outstanding and lasting contributions to the advancement of floriculture as an integral part of the American way of life.

Carm, who owns Cosentino's Florist in Auburn, New York, is a well-known industry spokesperson who has touched many in the floral industry through his talks, magazine articles and educational seminars. In his 43 years in the floral industry, Carm's passion has redefined how potent a grassroots effort can be. He has dedicated his life to teaching others in his industry about proper care and handling in order to prolong enjoyment and appreciation of the beauty of flowers.

Carm has spoken at hundreds of industry gatherings, instructed and acted as a spokesperson for major wire services, and has even translated his witty personal style onto paper as a contributor to many publications. His dedication to the floral industry is evidenced by his service as director of the SAF Board of Directors, vice president and president of the New York State Florists Association, and as director of the Seeley Conference.

It is a true accomplishment that Carm also owns and operates his own retail flower shop and wholesale business. Throughout his life in the floral industry, he has demonstrated the highest regard for improving the lives of everyone through flowers.

I am proud to call Carm Cosentino my good friend, and I join his lovely wife Anne Marie and his family today in recognizing this professional achievement.

PROTECTING THE GLOBAL POSITIONING SYSTEM (GPS) SPECTRUM

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. WELDON of Pennsylvania. Mr. Speaker, the fiscal year 2000 defense authorization bill contains a number of provisions critical to protecting military access to the radio spectrum. We all know how important spectrum is to information technologies, such as the Global Positioning System (GPS), which are critical to a wide range of military and civilian applications.

The importance of ensuring the continuous availability of critical information was demonstrated recently, when the Air Force successfully managed the so-called roll-over of the GPS clock—an event similar to the Y2K transition that we have heard so much about.

By successfully managing the GPS roll-over, the Air Force has ensured the continued stable reception of GPS signals by tens of millions of global users who depend on GPS for everything from air navigation and farming to guiding the war fighter on the battlefield and managing the Internet.

The concerns leading up to the Y2K-like rollover of GPS highlighted the potential global impact from any disruption to GPS services. To its credit, the Air Force, in close cooperation with industry, engaged in rigorous testing and analysis to ensure GPS signals would continue to be received through last month's transition. This effort upheld national policy, as expressed in both Presidential directives and Congressional legislation, that GPS signals will be continuously available and receivable at all times, everywhere in the world.

I and many of my colleagues believe it is in our national interest for the government and industry to continue to cooperate in ensuring that GPS spectrum is protected from disruption and interference. The GPS spectrum band

is coveted by commercial interests because of increasing demand for limited international spectrum. The American public has invested well over $14 billion to date to have the GPS services we enjoy today and we need to guard this investment from any harm. I urge the Department to continue its efforts to ensure GPS signals are continuously available in support of national policy, and applaud the continued strong congressional support for initiatives that will help us achieve that goal.

DEDICATION OF THE NAVAJO GENERATING STATION SCRUBBERS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. STUMP. Mr. Speaker, I rise today to bring attention to an important construction project in my home State and District that has set a precedent for balancing economic values with the delicate needs of the environment. I am referring to the recent completion of a $420 million air-emissions project at the Navajo Generating Station, or NGS, located near Page, Arizona, some 12 miles from the eastern boundary of the Grand Canyon National Park.

NGS was built in the early 1970's by the Salt River Project, or SRP, the nation's third largest public power provider, and a consortium of other utilities, to serve the needs to nearly three million customers in Arizona, Nevada and California. With a 2,250-megawatt capacity, the power plant is the second largest in Arizona and remains, to this day, one of the largest coal-fired power plants in North America. NGS participants include the Salt River Project, the Los Angeles Department of Water and Power, Arizona Public Service Company, Nevada Power Company and Tucson Electric Power Company. A sixth participant, the U.S. Bureau of Reclamation, sells its share of NGS electricity for power pumps of the Central Arizona Project, a 336-mile canal system critical to sustaining agriculture, industry and development in the greater Phoenix and Tucson metropolitan areas.

At the time of its construction, NGS was recognized for its advanced environmental controls and strict compliance with the Clean Air Act of 1971. Amendments to the Clean Air Act in 1977, however, put the plant on a collision course with new laws aimed at protecting clear vistas at our nation's national parks. Studies completed by the National Park Service indicated that the plant may be contributing to haze over the Grand Canyon National Park. Environmental groups subsequently filed a lawsuit against the Environmental Protection Agency demanding action to mitigate NGS emissions. Costly and protracted litigation, which would incur high costs to both taxpayers and customers of NGS, appeared inevitable.

Rather than litigate, SRP took the commendable route of seeking an environmentally and economically responsible solution to the plant's sulfur-dioxide output. With financing from NGS participants, independent and thorough scientific studies were conducted. While it was discovered that much of the haze in the Grand Canyon region derived from urban smog, dust, forest fires and visitor traffic at the Grand Canyon itself, it was also discovered that the NGS did contribute to Canyon haze under limited conditions.

In response to the results of the study, SRP and its NGS partners took the lead in reaching a balanced agreement to outfit the plant with additional emissions equipment. On September 8, 1991, I accompanied President George Bush and then-Secretary of the Interior Manuel Lujan and others to the south rim of the Grand Canyon to witness the signing of the NGS Visibility Agreement, the first such compact under the Clean Air Act. In accordance with that agreement, NGS is now outfitted with three wet-limestone scrubbers capable of removing more than 95 percent of the plant's sulfur-dioxide emissions. The last unit was put on line this summer.

In addition, during the scrubber construction process, SRP was able to save $100 million. The savings will be passed on to NGS customers at a time when the utility industry is being opened to retail competition.

Mr. Speaker, on Thursday, October 14, 1999, a ceremony will be conducted at the plant to commemorate the fulfillment of a promise made eight years ago. The Grand Canyon is one of the crown-jewels of our National Park System, with more than four million visitors a year. The Navajo Generating Station can no longer be credited with contributing to the haze at this national treasure.

Mr. Speaker, the dedication this month of the NGS Scrubbers exemplifies a true balance between economic and environmental values. This effort deserves wide recognition.

CELEBRATING PFIZER'S 150TH ANNIVERSARY

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. PITTS. Mr. Speaker, I rise today to congratulate Pfizer, Inc. on its 150th anniversary. As one of the global leaders in the important pharmaceutical industry, Pfizer has helped to improve the health of men and women around the world for the last century and a half.

Pfizer's long history is full of adventure, daring risk-taking, and intrepid decision making. Founded by German immigrant cousins Charles Pfizer and Charles Erhart in 1849, Pfizer has grown from a small chemical firm in Brooklyn, NY to a multinational corporation which employs close to 50,000 people, including 219 men and women in its tradition of developing innovative drugs to combat a variety of illnesses. In 1944, Pfizer was the first company to successfully mass-produce penicillin, a breakthrough that led to the company's emergence as a global leader in its industry. Since then, Pfizer has marketed dozens of effective medicines designed to fight conditions like arthritis, diabetes, infections, and heart disease in humans, and infections, parasites, and heartworm in animals.

As you can see, Mr. Speaker, Pfizer has made innumerable contributions to our nation and our world, and I applaud Pfizer's accomplishments as it celebrates its 150th anniversary.

BOLIVIA'S SUCCESSFUL COUNTER-NARCOTICS PROGRAM

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. GALLEGLY. Mr. Speaker, as Chairman of the Western Hemisphere Subcommittee I wanted to bring to the attention of my colleagues an often overlooked story in the debate over the war on drugs in the Western Hemisphere—that being the surprising success story of Bolivia. Even today, as we consider providing additional counter narcotics aid to Colombia to fight the terrible scourge of the drug trade which has so completely engulfed that nation, there is hardly any mention of the success achieved in Bolivia and Peru nor of the importance of providing additional assistance to those nations. It would be critically important that as the Administration considers a new aid package for the anti-drug fight in Colombia that some additional money be included for Peru and Bolivia so that they can continue their progress and ensure that as the Colombians become more successful in their efforts, the drug trade does not return to these other nations.

Bolivia is a success story which many of my colleagues need to know more about. When the current government of Hugo Banzer took office in 1997, the President proclaimed a goal of ridding Bolivia of all illegal coca and cocaine by the Year 2002. Many people familiar with Bolivia's situation proclaimed their skepticism and said that the drug trade was too lucrative for the farmers and peasants of Bolivia to give up, at least not willingly, that there was too much corruption, that given the condition of Bolivia's economy at the time, the Government could not sustain any type of alternative crop development program to win the coca farmers over.

Now, just a little over two years later, Bolivia has successfully eradicated over 50 percent of the illegal coca crop and reduced re-planting to a historically low level. This story has not been easy, nor without problems but with the firm commitment of President Banzer to succeed and under the strong leadership and direction of Vice President Jorge Quiroga and the Dignity Plan, Bolivia is well on its way to meeting its goals. According to the Bolivian government, between August 1997 and October 1999, over 27,000 hectares of coca have been eradicated. 121,000 square meters of coca seedbeds have been destroyed and 225 tons of cocaine bound for the United States or Europe have been interdicted.

Through a combination of domestic political leadership and international support, mostly from the United States, Bolivia has been able to develop a successful strategy which balances interdiction, eradication and alternative development. It is the alternative development program which has been the real success story and one which could become a model for even Colombia if the guerrilla war in that country is ever brought under control.

Mr. Speaker, the integration of illegal coca farmers into the legal economy of Bolivia has been the most urgent priority of the government and has thus far been highly effective. But it is also the most fragile element of the strategy in that unless the alternative crops can be produced and gotten to market in a

timely fashion and can bring a financial return equal to coca, the farmers could very easily return to illegal drug cultivation returning Bolivia to the status of a major coca producing nation as in the past.

The bottom line, Mr. Speaker is that Bolivia has done a remarkable job in reversing the drug trade in that region and for that, they should be recognized and congratulated. But more than that, we should be rewarding their success with additional funds which they need and have requested in order to continue the successful effort and ensure that the gains are not reversed. It makes no sense to recognize Bolivia's successful efforts, thank them for all they are doing to help protect American citizens from drugs and then not continue to help them finish the job they set out to do. I hope that our Administration understands this and that if and when they send a request for additional counter narcotics assistance to the Congress they consider including some level of additional assistance for Bolivia.

CONFERENCE REPORT ON H.R. 1906, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

SPEECH OF

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1999

Mr. HOBSON. Mr. Speaker, I would like to take this opportunity to commend the members of the Agriculture Appropriations Subcommittee for a job well done on the fiscal year 2000 Agriculture Appropriations Act which contained $1.2 billion for disaster assistance.

As you know, this summer's drought has placed a heavy burden on the agricultural industry in several parts of the country. Not only have crops been devastated, but the drought has also caused corresponding economic loss to livestock and dairy producers. The National Association of State Departments of Agriculture has recently estimated the natural disaster losses for all affected states to total $3.56 billion. The State of Ohio alone has suffered losses nearing $600 million, almost 15 percent of Ohio's largest industry. In my district, Pickaway County's estimated crop value for this year's harvest is $39 million below average. When this disaster is compounded with the existing low commodity prices, it puts our farmers in the most dire economic situation in recent memory.

Last week, I communicated with both the leadership and committee members to ensure that the final aid package would be augmented to provide adequate funding for United States Department of Agriculture (USDA) disaster assistance programs such as the Crop Loss Disaster Assistance Program, the Non-Insured Crop Disaster Assistance Program, the Livestock Assistance Program, and the Emergency Conservation Programs. Thankfully, the Republican Congress was able to pass an Agriculture Appropriations bill that included $1.2 billion in much-needed disaster assistance for our farmers.

To close, Mr. Speaker, I would again like to commend this Congress and especially those who have been instrumental in passing meaningful economic assistance to the farming community that serves as the foundation of this great Nation.

HONORING LINDA DOOLIN WARD, CENTRAL EXCHANGE 1999 WOMAN OF THE YEAR

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to honor an exceptional leader and friend to our Kansas City community. Today Linda Doolin Ward will be honored as the 1999 Woman of the Year by the Central Exchange. Linda Doolin Ward has an extensive history with Kansas City and has shown outstanding leadership in her career and contributions to our metropolitan area. This prestigious award recognizes her commitment to gender concerns and her desire for equality in the workplace and society.

She is currently President of the Women's Foundation, a local organization dedicated to funding programs and services which assist women. I am especially impressed with her work at the Women's Foundation to establish grants to help meet the health care, employment, and educational needs of women. This year the Foundation will announce $125,000 worth of grants addressing domestic violence, parenting, and professional development skills.

Serving on numerous boards, Mrs. Doolin Ward has demonstrated her significant presence as a catalyst for change. She was the first woman to be Board President and Chairperson of the Boys and Girls Clubs of Greater Kansas City and served as the Executive Director of the Central Exchange. She is the Co-Chair of the FOCUS strategic planning project, was recently appointed to the Port Authority of Kansas City, and serves as a Committee Chairwoman for the Partnership for Children.

Linda Doolin Ward's career is just as impressive as her record of volunteerism. For 15 years she worked as an executive with Payless Cashways, Inc., and is now Vice President of Investor Relations and Corporate communications with the American Italian Pasta Company. In addition to these achievements, she is married to her high school sweetheart, Terry Ward, and a devoted mother to her son, Jason. As a role model for women across the nation, Linda Doolin Ward has shown us how to balance family life with work and still make room to contribute to the people in our community.

I am honored to acknowledge Linda Doolin Ward for her successful efforts to promote equity and opportunity for women and her commitment to making our community a better place. Mr. Speaker, please join me in congratulating the Central Exchange 1999 Woman of the Year, Linda Doolin Ward.

LAND TRANSFER TO THE GREATER YUMA PORT AUTHORITY

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. PASTOR. Mr. Speaker, commercial growth along the southwest border increased at such a rate as to render current infrastructure resources obsolete in dealing with the volume of commercial traffic comfortably, economically and efficiently. Between 1990 and 1995, the border town of San Luis, Arizona witnessed a population increase of more than ninety percent, from 4,212 to 8,026. The combined population of San Luis and its sister city in San Luis, Sonora, Mexico is 350,000.

Since 1924, San Luis has served as a port of entry between the U.S. and Mexico. In 1998, the port experienced average daily crossings of 360 commercial vehicles, 7,500 private vehicles, and 5,865 pedestrian crossings. The average delay experienced by a commercial vehicle is nearly 2 hours. Delays for private vehicles can be of similar length depending on the time of day. Current port facilities are unable to expedite the current volume of traffic, and the increasing volume will only make a bad situation worse, unless efforts are made to reroute commercial traffic.

Today I am introducing legislation that authorizes the Bureau of Reclamation to transfer lands to the Greater Yuma Port Authority as a first in a series of steps toward building a new port of entry to clear commercial traffic through San Luis, Arizona.

This legislative measure has the support of the parties that make up the Grater Yuma Port Authority such as Yuma County, the cities of San Luis and Somerton, and the Cocopah Indian Tribe. I urge my colleagues to join me in supporting this legislation.

TRIBUTE TO DR. PEDRO JOSÉ GREER, JR.

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. DIAZ-BALART. Mr. Speaker, I rise today to honor a true humanitarian, an outstanding Cuban-American physician, a genuine hero, Dr. Pedro José Greer Jr., whose love for mankind, especially for the poor and homeless, is an admirable example for contemporary American society.

My uncle and aunt, Alfredo and Isabel Caballero, recently sent me a book authored by Dr. Greer with the cooperation of another admirable Cuban-American: Pulitzer Prize-winning columnist Liz Balmaseda. The book is titled, ''Waking Up In America'', and I highly recommend it to you, Mr. Speaker, and to all my colleagues.

Dr. Greer courageously denounces how society neglects millions of Americans who lack adequate health care. Dr. Greer is the medical director and one of the founders in South Florida of the Camilus Health Concern, a free clinic for the poor, and the San Juan Bosco Clinic for the poor. He has won a MacArthur Fellowship ''Genius Grant'' and was recognized by Time Magazine as one of Fifty Top Young

Leaders Under 40 in 1994. Dr. Greer has also been honored by two U.S. Presidents.

Dr. Pedro José Greer Jr. was brought up in a family with a tradition of love and service for our fellow man, formed by his father Dr. Pedro Greer, a prestigious Cuban gastroenterologist, and his mother, Mrs. Maria Teresa Medina Greer. Dr. Greer's great-grandfather fought for Cuba's freedom in 1898.

I would like to express my gratitude and congratulations to Dr. Pedro José Greer Jr. for his love and work for America and also extend this congratulatory message to his proud parents, his wife Janus Munley Greer, his children Alana and Joey and his sister and brother in law, Sally and Brian Belt.

HONORING SCHOOL FOODSERVICE DIRECTOR HELEN RANKIN

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. BALDACCI. Mr. Speaker, I rise today to call my colleagues' attention to National School Lunch Week which we will celebrate next week. Having grown up in the restaurant business, I feel a special camaraderie with school food service professionals. Every day, professional across the country ensure that our students have at least one hot, nutritious meal to help them grow and learn.

Maine is blessed with many extraordinary school food service professionals. But one in particular stands out—Helen Rankin, foodservice director for Maine School Administrative District 55, based in Hiram, Maine. Hiram is not what anybody would describe as a metropolitan area. It is a small, rural area much like most of Maine.

Helen has brought a degree of professionalism to her operation that belies the small size of the school system. Her commitment to quality and top performance by herself and her staff has made her a leader in Maine and across the nation.

Earlier this year, Helen was featured in the national publication School Foodservice & Nutrition. The article just scratches the surface of Helen's activities on behalf of her clients—school children in the Hiram area and beyond. She recognizes that school food services are a crucial building block in a child's education. We all know that hungry children cannot learn and that their bodies cannot grow and develop as they should.

Helen Rankin is a dynamic, dedicated professional. Maine students have benefitted tremendously from her leadership. I am proud to have the opportunity today to pay tribute to her, and to all of Maine's school foodservice professionals. I hope that next week, during National School Lunch Week, all of my colleagues will take the opportunity to recognize these hardworking individuals.

Mr. Speaker, I insert the School Foodservice & Nutrition article about Helen Rankin to be printed in the CONGRESSIONAL RECORD at this point.

HELEN RANKIN

BRINGING BIG-TIME PROFESSIONALISM TO A SMALL-TOWN DISTRICT

(By Mark Ward, Sr.)

Try to find Hiram, Maine, on a road atlas and it might take you a while. But while the town may be off the main highway, it's squarely on the map of leading school foodservice operations.

''We don't have the facilities of a larger district, but we're still on the cutting edge. And even if we don't have a lot of students, we do a lot for them,'' reports Helen Rankin, foodservice director for Maine School Administrative District No. 55, based in Hiram and serving five rural communities in the southwest corner of the state.

What puts Hiram on the school foodservice map is a simple maxim: ''I insist on professionalism,'' declares Rankin of her school nutrition team. For example, though the district's six schools serve just 800 lunches a day, each member of Rankin's staff is an ASFSA member, has taken a sanitation course and is a ServSafe certified food service handler. And despite an annual budget of just $400,000 (which includes a district appropriation of just $11,000), the department pays the expenses for its employees to attend state association conferences.

That commitment to professionalism and continuing education starts with Rankin herself. After 40 years in school foodservice, including 30 years in her present post, she's not resting on her laurels. At the state level, she has helped to transform what was a small association into a professional organization that now boasts 700 members and conducts a statewide peer review program. And, as a former Maine School Food Service Association (MSFSA) president, Rankin enjoys respect and clout with state and local policymakers.

And though Hiram may be a small dot on the roadmap, Rankin sees no limit to her own professional horizons. She has spoken at conferences across the country, been nominated twice for ASFSA national office and served as Northeast Regional Director on the National Association's Executive Board. Throughout the 1990s, Rankin's influence has been felt on the ASFSA Public Policy and Legislative Committee and, more recently, its Political Action Committee (PAC).

''By making a commitment to get involved with my profession,'' Rankin reflects, ''I've had opportunities that a person from a small rural town, who started out with only a 9th-grade education, might only have dreamed of.''

FROM PTA TO PROFESSIONAL

Forty years ago, the notion that a school cafeteria worker could be a ''school foodservice professional'' was rarely encouraged—or even understood. Back then, Rankin says, she first became involved with school meals ''because the PTA, which I was president of, was responsible for the hot lunch program.'' When the group hired a new cook who quit after just one day, it was up to Rankin to fill the gap. ''We had 75 students at that school and, after volunteering at first, I ultimately got paid $15 a week to cook the meals and clean the kitchen,'' she recalls.

Over time, Rankin received her own high school equivalency certificate and went on to earn a bachelor's degree. Then in her ninth year as de facto school foodservice manager, the school was incorporated into a newly formed district. In turn, that brought the hiring of a district foodservice director. Like the cook a decade earlier, the person who filled this position resigned after a brief stint, which paved the way for Rankin to assume the post.

''In those days we had no free lunch program, and I can remember kids who would bring in a jar of water and a piece of bread to eat,'' Rankin continues. Now, 30 years later, ''We have reimbursable meals, a breakfast program, a la carte service—plus marketing and promotion, and the expectation that we have to be financially self-supporting. Times certainly have changed,'' she adds.

It also was 30 years ago that Rankin was introduced to ASFSA and the concept that school foodservice could be a professional pursuit. ''MSFSA's conference were small,'' she recalls, ''So I went to my first state meeting in Connecticut. That got me fired up and, along with some other foodservice directors from Maine, we decided to start building up our own state association and making it more active.''

Professional involvements ''are hard work'' Rankin admits. And many times her volunteer commitments require extra hours at work because, lacking funds to hire a full central office staff, Rankin first must handle all the business affairs of the district office. ''Yet you learn so much by going to meetings and participating in your profession,'' she remarks. ''Every time I go to a conference or event, I find out what's going on in the industry and the profession. Best of all is the exchange of ideas you get, because you can talk with other professionals one-on-one.''

PRESERVATION AND PROGRESS

And while Rankin is a firm believer in the need for school foodservice professionals to meet with and learn from one another, she also emphasizes the need for the profession to build relationships with government, industry—and the public.

That realization came to Rankin—and many other school foodservice operators—in a big way, five years ago, when a push was made in Congress to eliminate the National School Lunch Program. As a result, child nutrition advocates from both large urban districts and small rural schools joined with politicians, industry partners and others to make their case for the need for school nutrition programs to remain a federal program.

Today, ending the National School Lunch Program is no longer an issue. The visibility and respect that the school food-service profession earned on Capitol Hill during the debate remains in force.

To preserve these gains and secure more victories, Rankin reports that the goal of the ASFSA PAC is to ''ensure that supporters of child nutrition are re-elected to public office.''

Like school foodservice directors across the country, Rankin also has focused attention on building bridges at the state level. Back home in Maine, she has helped the profession establish a presence in the state legislature, governor's mansion and in city and county councils statewide. Currently, school food-service directors in Maine are pressing for increased support of nutrition education programs.

In a career that already has spanned 40 years, Rankin has set a personal goal she hopes to achieve before retirement. ''School foodservice should be respected enough to be recognized as an integral part of the education process, and therefore included in school planning,'' she asserts. ''For example, determining how much time is allotted for lunch should have the same weight as planning for class periods, rather than just giving lunch whatever time is left over.''

Because Rankin is employed in a small district, she enjoys—in a way not available to directors in many large districts—personal and daily contact with school officials. Therefore, she's enthused about the prospects of realizing her goals and seeing her district become a national model for integrating nutrition and education planning.

''Whether your district is large or small, the basic challenges are the same,'' Rankin concludes. ''For example, I may not have the

same computer system that a large district has. But that's okay, because the real issue is that, with kids, you always need the human touch. Whatever your district's size, whether it's large or small, city or country, the most important thing we serve our students is a smile.''

NATIONAL AMUSEMENT PARK RIDE SAFETY ACT OF 1999

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. MARKEY. Mr. Speaker, today I am joined by ten of my colleagues in introducing ''The National Amusement Park Ride Safety Act of 1999.'' They include Representatives MILLER (CA), HOEFFEL (PA), WEXLER (FL), KUCINICH (OH), LIPINSKI (IL), MALONEY (NY), WEINER (NY), DELAURO (NY), NEAL (MA) and WAXMAN (CA). This bill will restore the ability of the Consumer Product Safety Commission (CPSC) to investigate serious accidents in amusement parks that offer rides, such as roller coasters, which are permanently fixed to the site. While the CPSC has the authority to investigate accidents that occur on rides that move from site to site, rides that are permanently fixed in theme parks are off limits. This bill would correct this anomaly by closing the ''roller coaster loophole.''

Roller coasters are, in general, quite safe. But in the course of just 6 days at the end of August, an unusual number of tragedies on amusement park rides highlighted the fact that when something goes wrong on these rides, the consequences can be catastrophic. Today's rides are huge metal machines capable of hurling the human body through space at forces that exceed the Space Shuttle and at speeds that exceed 100 miles per hour. They are complex industrial-size mechanisms whose design, maintenance and operation can push the limits of physical tolerance even for patrons in peak condition, let alone members of the broad spectrum of the public who are invited to ride each day.

The fatalities at the end of August, which U.S. News & World Report termed ''one of the most calamitous weeks in the history of America's amusement parks,'' included:

August 22—a 12-year-old boy fell to his death after slipping through a harness on the Drop Zone ride at Paramount's Great America Theme Park in Santa Clara, California;

August 23—a 20-year-old man died on the Shockwave roller coaster at Paramount King's Dominion theme park near Richmond, Virginia;

August 28—a 39-year-old woman and her 8-year-old daughter were killed when their car slid backward down a 30-foot ascent and crashed into another car, injuring two others on the Wild Wonder roller coaster at Gillian's Wonderland Pier in Ocean City, New Jersey.

The Consumer Product Safety Act charges the CPSC with the responsibility to protect the public against unreasonable risks of injuries and deaths associated with consumer products. However, rides in ''fixed locations'' such as theme parks are currently entirely exempt from safety regulation by the CPSC. State oversight is good in some places, bad in others, and in some states, the state has also exempted ''fixed locations'' so that there is no federal or state regulatory body overseeing ride safety. The number of serious injuries on ''fixed location'' rides has risen dramatically from 1994 through 1998.

Why do we bar the Consumer Product Safety Commission (CPSC) from investigating accidents on roller coasters and from sharing that information with the rest of the country?

It makes no sense.

When a child is killed or injured on an amusement park ride, should the decision to investigate depend on whether the amusement park ride is ''fixed'' versus ''mobile''?

Emergency-room injuries more than doubled in the last five years, yet the CPSC is prohibited from investigating any—not one—of those accidents, even when it involves a ride that may be in heavy use by mobile carnivals or fairs.

According to the CPSC Chair, Ann Brown, ''The current regulatory structure as it applies to fixed-site amusement park rides is not sufficient to protect against unreasonable risks of injuries or deaths caused by these rides.''

She is right.

The accident statistics highlight the folly of granting an exemption from federal safety regulation to amusement park rides. Injuries are rising rapidly on the one category of amusement park rides that the CPSC is barred from overseeing. The manufacturer or owner of every other consumer product in America is required by law to inform the CPSC whenever it becomes aware that the product may pose a substantial risk of harm—but not the owners or operators of ''fixed-site'' rides in amusement parks.

Some in the industry argue that this legislation is unnecessary because the states or the industry itself can provide sufficient protection. This argument fails on two counts.

First, many states have simply failed to step in where the federal safety agency has been excluded. The CPSC reports that there is still no state-level inspection program in Alabama, Arizona, Kansas, Massachusetts, Minnesota, Mississippi, Missouri, Montana, North Dakota, South Dakota, Texas, Utah and Vermont. In addition, Florida exempts the big theme parks from state inspection, Virginia relies on private inspections, and New York exempts New York City (which includes Coney Island.) California had no state program until last month.

Second, states are not equipped and not inclined to act as a national clearinghouse of safety problems associated with particular rides or with operator or patron errors. That is a federal function. Yet the federal agency charged with the protection of the public against unreasonable risk of injury or death is currently, by law, forbidden from carrying out this important task.

I urge my colleagues to support this measured effort to close the loopholes and to ensure patrons of amusement parks that the level of protection afforded by law will no longer hinge on the question of whether the ride itself is ''mobile'' or ''fixed.''

PROFILES OF SUCCESS HONORS MRS. HILDA ORTEGA-ROSALES

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. PASTOR. I rise before you and my colleagues today to ask you to join me in paying tribute to a woman who is described by friends as ''La Super Chicana,'' Mrs. Hilda Ortega–Rosales.

Hilda recently received an Exemplary Leadership Award at Valley del Sol's Annual Profiles of Success Leadership Awards in Phoenix. Valley's award ceremony is the premiere Latino recognition event in Arizona each year that acknowledges Arizona's leaders and their contributions.

Raised in a south Phoenix barrio, Hilda was the third child of eight children. As she grew up, Hilda cared for her brothers and sister, put in long days to attend school, helped with household chores and worked in a vegetable packing house to earn money. Even today, she has not shortened those long days and always finds a way to fit in numerous volunteer hours in addition to her job as Customer Service Director for American Express Merchant Services.

Currently, Hilda sits on the city of Glendale Planning and Zoning Commission. Other volunteer posts have included Commissioner for Glendale Parks and Recreation Department, District Chair for the Arizona State University (ASU) Legislative Network Committee and Board Chair for Chicanos Por La Causa, Inc., in Phoenix.

From presidential to school board elections, Hilda has tirelessly given countless hours of her personal time to political campaigns. Other organizations which have benefitted from her community involvement include Los Diablos, the Hispanic Alumni Association for ASU; Mujer, Inc.; United Way; Arizona Hispanic Chamber of Commerce; and ASU's Hispanic Mother/Daughter Program.

Taught by her parents to give back to her community, Hilda's volunteerism and dedication also is compelled by her desire to promote social justice, political power and economic development for Latinos. She is an exemplary role model for our country and someone who has personally made a significant impact on the Latino community.

As you can see, Mr. Speaker, Hilda's community service has been immense. She has instilled the importance of community responsibility in family members and many individuals who look up to her. Therefore, I am pleased to pay tribute to Hilda Ortega-Rosales and I know my colleagues will join me in thanking her and wishing her continued success.

A TRIBUTE TO THE MOST REV. BISHOP ALFRED L. ABRAMOWICZ

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. LIPINSKI. Mr. Speaker, I rise today to pay my respects to a distinguished Bishop in my district, the most Rev. Alfred L. Abramowicz Auxiliary Bishop Emeritus of the Archdiocese of Chicago and Pastor Emeritus of the Five Holy Martyrs Parish, who recently passed away.

Born on January 19, 1919, he completed his secondary education at Quigley Prepatory Seminary and college at St. Mary of the Lake Seminary of Mundelein. Graduate studies were completed at Gregorian University, Rome, 1949–51 with a Licentiate of Canon

Law Degree. He served with the Archdiocese Metropolitan Tribunal for twenty years and for two years as a judicial vicar. Bishop Abramowicz's first appointment was associate pastor of Immaculate Conception Parish in South Chicago from June 19th, 1943 to July 7th, 1948. He was named Auxiliary Bishop on May 2nd, 1968 and appointed pastor of Five Holy Martyrs Parish on July 14, 1968 and served until January of 1990.

Bishop Abramowicz's involvement in the community was far-reaching. In 1969 he served as national chairman for the U.S. visit of His Eminence Karol Cardinal Wojtyla of Krakow, Poland and was fundamental in planning the second visit of that same friend, Pope John Paul II to Chicago in 1979.

Mr. Speaker, Bishop Abramowicz's strong dedication to the Catholic church and to his community as a whole will be sorely missed. I am certain that his legacy will live on in the community for many years to come.

TRIBUTE TO JOSE AGUIAR

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a young and successful entrepreneur from my congressional district, Mr. Jose Aguiar. Through his dedication, discipline, and success in small business, Mr. Aguiar can serve as a role model for millions of youngsters in the United States who dream of succeeding, like him, in the world of business.

Mr. Speaker, I ask my colleagues to join me in paying tribute and wishing continued success to Mr. Jose Aguiar.

The following article, which appeared in the October 4, New York Daily News, describes Mr. Aguiar's career in more detail.

DRY CLEANER'S KEEN TO EXPAND

Dry cleaning is Jose Aguiar's business, but cleaning up is his goal.

The 37-year-old president of Kleener King, a chain of dry cleaning stores in the metro area, is poised to expand by opening a central facility that will handle all the cleaning from his growing number of stores.

''I'm at the cusp,'' the Bronx businessman said, adding that he will use a $6.1 million loan from the Upper Manhattan Empowerment Zone, the Bronx Overall Economic Development Corp., and the Empire State Development Corp. to help spur his company's growth.

Growing from a small outfit to a chain of 20 in his native Bronx and in upper Manhattan didn't happen overnight.

In 1982, Aguiar dropped out after two years at Columbia University—where he was majoring in economics—to run his parents' business with his mother, Carmen, after his father, Jose Sr., became ill.

He held on to his parents' original location, Joe's Cleaners on Creston Avenue in the South Bronx, but soon sold the branch on University Avenue about a mile away.

''I didn't know how to manage one store, let alone two,'' he recalled.

After several years of working as a spotter—the person who pretreats all the stains—he started getting scared about his career prospects.

''I felt I had no future,'' he said, especially since some of his former Columbia classmates were moving on to plum positions in the business world.

A turning point came in the mid-1980s, when Aguiar went to an industry trade show.

''It opened his eyes and created a big appetite,'' said David Lewin, the owner of Ipso of New York, a dry cleaning equipment company. Over time, Lewin became a mentor as well as an investor in Aguiar's business.

''It all starts with one store,'' Aguiar recalled thinking.

He prepared a business plan and set about securing loans to fund an expansion, but scores of sources turned him down.

''They said, 'Grow it to a $10 million company first' or 'Dry cleaning is not interesting,''' he said. ''But I don't give up that easily.''

After rounds of talks, he secured millions in a combined loan from several economic development groups in Manhattan and the Bronx for the centerpiece of his strategy—a $2.5 million centralized cleaning plant, which he persuaded the Port Authority of New York and New Jersey and city economic development agencies to jointly sponsor because he promised to create jobs.

The plant, in the Bathgate Industrial Park, will employ more than 100 Kleener King workers at peak operation.

As his company grows, Aguiar credits his parents for his perseverance. The couple moved to New York from Puerto Rico in the early 1950s, and opened Joe's Cleaners in 1956 with $5,000 in seed money.

His father insisted he work every Saturday starting at 6 a.m. and after school, except when he played for softball and football teams.

Aguiar said some of his earliest memories were in the store. ''I was a dry cleaning baby,'' he said, recalling photos of him sitting on a dryer or atop a clothes bin.

Thirty-five years after his parents' start, Aguiar was crafting his plans for Kleener King.

In the early days, the company was pulling in about $250,000 in revenues. This year, that jumped to about $2 million, and he hopes it could grow to about $10 million in four years.

Working seven days a week at the business has been his routine since his mother died in 1993. Unmarried and without much family in New York, he works well into the evening before trekking home to Bayside, Queens.

''Kleener King is my life,'' said Aguiar, who for the past three years has been a guest speaker at Columbia University on entrepreneurship and who vows to attend business school one day.

In hopes of pursuing that dream, he's trying to get credit for his professional experiences to help achieve the equivalent of an undergraduate degree.

''I've learned a lot on my own,'' Aguiar said.

HONORING BEN DiGREGORIO

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. ENGEL. Mr. Speaker, Ben DiGregorio is that rare individual, someone who has devoted his life to the service of his country, his city and his community. He came to the Bronx when he was a year old and has lived here ever since. He joined the Navy as a young man and when he was discharged, joined the New York City Police Department. He has a marvelous 34 year career and was named the first commanding officer of the 49th Precinct when it opened in 1985. He retired three years later but was not finished.

Captain DiGregorio was elected to Community School Board 11 and he has served in that capacity for 11 years. But he not only served on the Board but would go to schools to give career counseling and read to the students. He was honored by the Forum of Italian American Educators with their Community Service Award for his work on the School Board.

Ben and his wife Virginia have a daughter, Donna, and two sons, Steven and David. He is retiring from Community School Board and I want to join his friends and colleagues in wishing him and his family all the good that life has to offer. He has certainly earned it.

NATIONAL COOPERATIVE MONTH

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. MORAN of Kansas. Mr. Speaker, it is with great pleasure today that I rise to join my colleagues in supporting National Co-op Month. Across Kansas and across the country, cooperatives form the economic backbone of many communities. Co-ops provide power, purchase the agriculture products, add value to the farmer and rancher, and allow individuals to join together in their local communities.

Across the country, over 70 million people belong to some type of cooperative. Since Ben Franklin formed the first co-op in 1752, co-ops have operated with three basic principles: user ownership, user control, and user benefits. It is with those three principles that individuals can work together to add value and compete in a world where mergers and concentration are often the stories of the day.

In Kansas, farmers and ranchers have joined in innovative cooperative projects aimed at moving them from being producers, to being processors and providers of wholesome food products in the grocery store. Kansas' 21st Century Alliance has taken risks to move farmers into grain processing, beef processing, high-volume dairying, and even dry-edible bean processing. All of these ventures have been cooperatives, allowing producers ownership, control, and, hopefully, the benefits.

The challenge for Congress is to support and encourage more opportunities for farmers and ranchers to add value and gain a greater portion of the food dollar. Cooperatives provide that opportunity, and I look forward to pursuing new ways to assist cooperatives as they grow and advance on behalf of their member-owners.

Mr. Speaker, I join my colleagues in congratulating cooperatives on their first century and a half, and wish cooperatives success in these and other ventures for the next century.

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

SPEECH OF

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes:

Mr. GARY MILLER of California. Mr. Chairman, I rise today in support of H.R. 764, the Child Abuse and Protection Act of 1999—the CAPE Act.

As a cosponsor of H.R. 764, I would like to extend my gratitude to Congresswoman DEBORAH PRYCE for her hard work on this important measure.

Today at least 500,000 children in the United States are enrolled into foster care or institutions because living situations are so bad, they must be removed from their homes.

In 1997 alone, there were 3 million reported cases of child abuse and neglect.

The challenge for this Congress was to craft legislation which would alleviate this suffering by our children while giving states and localities the resources combined with the flexibility to deal with the child abuse problems in their own communities.

The CAPE Act meets this challenge beautifully.

H.R. 764:

(1) Allows state and local officials to use existing law enforcement grants for child abuse prevention.

(2) Allows state and local officials to use existing Identification Technology Act grants to provide child protection agencies access to criminal history records.

(3) And what I like best about this bill, is that it increases direct funding for child abuse related services in the Crime Victims Fund—all of which comes from forfeited assets, bail bonds, and fines paid to the government by criminals—Not the Taxpayers!

The CAPE Act is an effective piece of legislation that gives those who know how to help abused children the resources they need to do their job, as they see fit.

Once again, Mr. Chairman, I urge my colleagues to support this much-needed piece of legislation.

JACKSONVILLE SYMPHONY ORCHESTRA'S 50TH ANNIVERSARY

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mrs. FOWLER. Mr. Speaker, I rise today to recognize two significant events in the cultural life of my home city of Jacksonville, Florida: the 50th Anniversary of the Jacksonville Symphony Orchestra and the much-anticipated arrival of the Symphony's new Music Director, Fabio Mechetti.

Mr. Speaker, either of these things would be something to celebrate under any circumstance. Coming together as they do, however, they represent a unique milestone for the Symphony and for the people of Northeast Florida.

Founded in 1949, the Jacksonville Symphony Orchestra has developed from what was essentially a pick-up group doing seven or eight concerts a year into a full-fledged professional orchestra with a nine-month season and a budget of nearly $7 million. In the process, it has become one of the finest and most respected orchestras in its class in the United States and gained a new home in Jacoby Hall—the only dedicated symphony hall in the state of Florida and one of the few in the nation.

This season, the Symphony will reach more people than ever before, with the advent of innovative new education and outreach programs, and with performances throughout the state and in Myrtle Beach, South Carolina. In addition to the stellar array of programs and guest artists including cellist Lynn Harrell, pianist Leon Fleisher, and guest conductors like Philippe Entremont and Joseph Silverstein, the orchestra will also highlight its own by featuring a number of orchestra musicians as soloists, including concertmaster Philip Pan, principal trombonist Richard Stout, and the redoubtable Charlotte Mabrey, one of the world's few female principal percussionists. In a milestone 50th Anniversary Festival, orchestra patrons will be treated this year to a look at the Symphony's past and a taste of its future, including the sponsorship of the first-ever Florida Composers Competition.

The icing on top of this anniversary cake of great music and great community service is the arrival of the Symphony's new Music Director, distinguished conductor Fabio Mechetti. Born in Brazil, Maestro Mechetti is one of the most respected young conductors in the U.S. today, garnering consistent praise from critics and colleagues for his artistry and knowledge of the repertoire. Chosen as Music Director in 1999 after an intensive, two-year search process, he comes to Florida's First Coast from the West Coast, where he has been Music Director for the Spokane Symphony for 6 years.

Maestro Mechetti, who just finished a 10-year tenure as Music Director of the Syracuse Symphony and was recently appointed as Music Director of the Rio de Janeiro Opera, has also served as Resident Conductor of the San Diego Symphony and Associate Conductor of the National Symphony in Washington, D.C., where his children's programs won the National Endowment for the Arts Award for Best Educational Programming in the United States in 1985. He has appeared as guest conductor with many of our nation's outstanding symphony orchestras, as well as with orchestras in Mexico, Brazil, Venezuela, Denmark and Japan, and is gaining acclaim in the opera world as well.

Mechetti and his wife, Aida Ribeiro—a brilliant concert pianist—will be making their home in Jacksonville in the near future, deepening the ties between the Symphony and its new leader. The advent of the new creative partnership between Fabio Mechetti and the Jacksonville Symphony Orchestra marks yet another giant step forward for the orchestra and for the cultural life of our community.

Mr. Speaker, I ask my colleagues to join me in congratulating Maestro Fabio Mechetti and the Jacksonville Symphony Orchestra on a momentous 50th Anniversary Season and the beginning of a new millennium of great music.

IN HONOR OF THE POLISH AMERICAN CONGRESS, OHIO DIVISION, IN CELEBRATION OF THEIR 5OTH ANNIVERSARY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the Polish American Congress, Ohio Division, as they celebrate their 50th anniversary.

On May 18, 1949, the Ohio division of The Polish American Congress was founded. The Polish American Congress is composed of individuals of Polish ancestry as well as Polish organizations. The group serves as a unifying force for both Polish Americans and Polish citizens living in America. Taking a positive stand on issues concerning the people of Poland, the group strives to attain a free market economy within the frame work of a democratic society.

The goal of the Polish American Congress is to make Americans of Polish heritage more effective U.S citizens by encouraging them to assume the responsibilities of citizenship. In addition, the group supports fraternal, professional, religious, and civic associations dedicated to the improvement of the status of Polish Americans.

It is evident that The Polish American Congress has played a crucial role in the Polish Community, and in its many years of service has been an invaluable contribution to the Cleveland Community.

UNBORN VICTIMS OF VIOLENCE ACT OF 1999

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1999

The House in Committee of the Whole House on the State of the Union had title consideration the bill (H.R. 2436) to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes:

Mr. BLUMENAUER. Mr. Chairman, I wish to express my opposition to H.R. 2436. Since the landmark Roe v. Wade Supreme Court decision, Congress has slowly passed legislation that has eroded women's reproductive choices. This is a personal and private decision that should be made by a woman, her family, her physician, and her beliefs, not subjected to increasing levels of government interference.

Rather than being merely a good faith effort to protect pregnant mothers from violence, the ''Unborn Victims of Violence Act'' is actually a back door attempt to interject government into individuals' private lives. Harsh penalties already exist in thirty-eight states for crimes against pregnant women that result in the injury or death of her fetus.

The overwhelming majority of crimes against pregnant women that cause injury to her fetus occur in cases of domestic abuse or drunk driving accidents, instances that are

prosecutable under currently existing state laws. H.R. 2436 would do nothing to add to the existing protections against these serious and prevalent crimes. Nearly one in every three adult women experience at least one physical assault by their partner during adulthood and drunk driving accidents continue to result in substantial loss of life in every city across the nation. Instead of focusing on purely political measures aimed at the erosion of a women's reproductive freedom, we should be enacting more appropriate penalties, passing measures to promote protection from violence, and increasing assistance to women in life threatening domestic situations.

If the sponsors of this bill truly cared about addressing violence against women, particularly pregnant women, they would have voted in support of the Lofgren Amendment that enacts strict punishments for crimes that result in the injury or death of the fetus without the inclusion of constitutionally questionable language. Or we would be considering the reauthorization of the Violence Against Women Act that has proven to help victims of domestic violence. Clearly H.R. 2436 is more about politics and less about the protection of a woman or her fetus.

REGARDING THE DEATH OF WILLIAM SALETIC

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Ms. DUNN. Mr. Speaker, the State of Washington and the Northwest seafood industry lost a valuable friend with the death of William G. Saletic on September 9, 1999. Bill had been a very important part of my state's commercial fishing industry since 1960 when he first represented the Purse Sein Vessel Owners Association. Over the next forty years he became both a leader in the industry and an important advisor to many Presidential Administrations and to all who served in the Washington Congressional delegation during that time.

At the time of his death, Bill had just recently retired from his position as President of Peter Pan Seafoods, one of the premier commercial seafood processing companies in the United States, and one of the largest in the Northwest. While at Peter Pan he found time to not only build the company into a marketing powerhouse, but he also remained involved in fishery politics through his membership on numerous boards, commissions, advisory panels and trade associations. Among these were the International North Pacific Fisheries Commission, the Committee for Fisheries of the Law of the Sea, the International Pacific Salmon Fishing Commission, the Board of Directors of the National Fisheries Institute, the Board of Directors of the National Food Processors Association, the Board of Directors of the Alaska Seafood Marketing Institute, Chairman of the Pacific Seafood Processors Association, and member of the Board of the Independent Colleges of Washington.

Bill's involvement in the fisheries of the Northwest and Alaska predates all those who are currently in the Congressional delegations of either Washington or Alaska. He had the chance to assist Senators Magnuson and Jackson in crafting legislation which helped to protect our domestic salmon industry. In the 1960's and 1970's he worked with the Johnson, Nixon, Ford and Carter Administrations in negotiating international fishery agreements to balance access to the resource against the need to limit harvests to a sustainable level. He worked with Senators Magnuson and Stevens and Congressman DON YOUNG in the 1970's developing the legislation which extended American fishing jurisdiction out to 200 miles. And he remained active during the 1980's and 1990's as we successfully developed a whole range of commercially valuable species in the North Pacific, species which now provide employment to thousands of Washington residents.

Bill was very proud of his long involvement with the commercial fishing industry, but he was perhaps even more proud of the years of hard work that he put in working toward both a degree in Business Administration and a Masters in History from Seattle University, an institution for which he had a special fondness.

Education was always an issue of great importance to Bill, and he conveyed this value to his six children who were a great joy to him during his lifetime. He will be greatly missed by them by his wife Dolores who, sadly, had only been able to enjoy one year of retired life with Bill prior to his sudden and tragic death.

I feel that I have lost both a close advisor and a friend with the passing of Bill Saletic. He will be missed by me and by all those who had the opportunity to know him.

IN RECOGNITION OF SEAN STEPHENSON'S ACCOMPLISHMENTS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. LIPINSKI. Mr. Speaker, I rise today to honor a remarkable constituent and former intern with my office, Sean Stephenson. Sean Stephenson has a remarkable outlook on life, nutrition, and fitness. The following is an article on Sean Stephenson that was printed this summer in The Suburban LIFE Citizen, a local paper in my district. I encourage my colleagues to read the article and join me in applauding Sean Stephenson for his accomplishments. I wish Mr. Stephenson continued success in the future.

MAKING A CHANGE—STEPHENSON ADOPTS NEW FITNESS, HEALTH REGIMEN

(By Wendy Foster)

He calls himself Mr. Tiny Universe . . . a fitness buff with a whole new look.

He is tiny . . . measuring in at 2 feet, 10 inches tall. But diminutive stature aside, La Grange resident Sean Stephenson's indomitable spirit combined with his enormous strength of character make him in fact, larger than life.

The 20-year-old was born with Osteogenisis Imperfecta, a genetic connective tissue and bone disorder. Stephenson has a serious form of the condition, which is characterized by bones that break easily from little if any apparent cause.

Never one to let his physical limitations affect his academic, social, or business achievements Stephenson has now set about improving his fitness and health through what he calls a dramatic change in his lifestyle.

Late last year Stephenson had several experiences that he said changed his life drastically. This started, he recalled, with a December trip to Florida with his family to attend a Tony Robbins seminar.

Robbins is a world-renowned inspirational speaker and the author of popular self-improving books.

Calling Robbins ''the world's greatest motivator,'' Stephenson who has launched his own inspirational speaking business explained, ''He's been my hero when it comes to inspirational speaking.''

A featured event scheduled toward the end of the seminar was a fire walk. During this, seminar attendees were encouraged to walk across hot coals. Stephenson went in his wheelchair over to where Robbins was helping to supervise the fire walk.

Unable to walk, Stephenson was carried over the hot coals in Robbins' arms. Stephenson recalled, ''It was the most incredible experience . . . They were the most intense seconds of my life . . . It felt like an angel was carrying me up to heaven.''

Stephenson and his family later had the opportunity to visit with Robbins in his hotel room. Robbins questioned Stephenson about his disability, and then put him in touch with a physician friend of his in Utah.

Several days prior to Christmas, Stephenson went to Utah to see Dr. Robert Young, a hematologist with a speciality in holistic medicine.

Explaining his visit Stephenson said, ''He has a different view on medicine. He tested my blood and showed me all of the horrible garbage in my blood from eating wrong. He told me that in order to get healthy and strengthen my bones, I would need to change my eating habits.''

He continued, ''Every doctor, every surgeon, everyone I have ever gone to has been about taking a pill, a shot, or having more surgery. None of them have made me feel the way that a new nutritional program would . . . I didn't think anything could change with my body through nutrition. I lived on macaroni and cheese everyday. If it was green, I didn't eat it.''

After his consultation with Young, Stephenson did a 180-degree turn in terms of his eating habits, becoming an avid vegan. A vegan, he explained, is someone who does not eat any animal by-product.

He has also drastically cut down on his consumption of sugar, salt and foods made with yeast. Stephenson eats tofu, rice, legumes, and water content foods, which he said are vegetables high in water content.

The one-time junk food eater now starts out his morning with steamed broccoli and olive oil on a whole wheat tortilla. Stephenson explained, ''It's packed with Vitamin C and calcium and will keep me going strong till noon or later.''

Stephenson drinks water laced with a product that Young calls super greens. Admitting that the concoction tastes like ''fresh cut grass,'' Stephenson said it neutralizes acid in the body.

Describing his new eating habits Stephenson stressed, ''This is not a diet. This is how I'm eating for life.''

In addition to drastically changing his nutritional program, Stephenson embarked upon a strenuous exercise regime, working out for one and a half hours, five or six days each week.

He reported, ''It's the best thing that's ever happened to me. I have basically gained muscle mass in massive amounts in a small time.''

Stephenson developed his own exercise program on his computer. He now works out with weights, does stomach crunches and

push-ups, jogs in place while laying down, and works out with a speed chair, the kind of wheel chair used in racing competitions.

Stating that most people quit exercising because of boredom with their routines, Stephenson makes certain to alternate his workout regularly.

Stephenson reported that since he started his new nutrition program and exercise regime. ''I believe that I'm a lot stronger. When I'm reaching for something, I don't feel like a bone is about to break. I feel more confident. I can now lift my own body so I know I'm stronger.''

For the first time in his life, Stephenson said, he has been able to go down the stairs in his home un-aided. He observed, ''It's amazing what I have been able to do.'' Stephenson said, ''I was never told with my disorder to work out. I have had hundreds of broken bones. If I had been told to do things to strengthen my muscles in order to reduce my risk of broken bones, I would have done this years ago.''

While his ongoing goal is to increase his bone density, Stephenson's long-term goal is to strengthen his muscles enough to enable him to live independently.

In what he admitted is a ''wild theory'' Stephenson also hopes to decrease the chances of passing on his disorder to his future children. He explained that he feels he can do this if his ''body is in the best possible shape.''

Stephenson now plans to use his personal experiences leading up to his lifestyle change in his inspirational speaking. He said, ''If I can work out, and I have a billion and one reasons not to, then a healthy person definitely should.''

Stephenson continued, ''Exercising is not just for Arnold Schwartznegger, it's for everyone. I could always say I break really easily or it's not as if I will look any stronger. I could rattle off a million of excuses and people would say I'm probably right. But I have to put myself at the same standard of health or even above if I want to be judged with everyone else.''

Stephenson stated, ''I look completely different than the average fitness buff. People look at me and think 'If a guy in a wheel chair can do it I need to get off my duff and do it.' I think it motivates them more than when they hear it from someone who has giant muscles. They look at me and see that even though I have things going against me, I'm willing to get out there and make the best of my own body.''

Stephenson concluded, ''Look at me, I'm 2'10 and I am in a wheelchair and I have every reason in the world not to work out. But I do. Why? Because I believe you need to use what you were given in life.''

HONORING EMILY SANCHEZ

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. ENGEL. Mr. Speaker, certainly one of the most important things we can do for our children is to pass on our knowledge to them. Emily Sanchez is someone who has done that. She has been a member of Community School Board 11 for 16 years, twice in that time serving as president of the Board. She also served as Board Secretary and chair of the budget, finance, curriculum and continuing education, personnel and zoning committees.

She hit the ground running at the School Board by leading the fight in her first term to keep I.S. 180 open when the Central School Board wanted to close it.

She did not limit her activities to the School Board. She is also a member of Community Advisory Boards of the Jacobi Medical Center and chair of the AIDS and Support Services Committees, a member of Montefiore Medical Center as well as a member of the Co-op City Democratic Club and the Hispanic Society of Co-op City.

She did not run for re-election to the School Board and this is a loss we will feel for a long time. I want to wish her, her husband and their two sons the very best in the future and say that I and the community will dearly miss her ability and her leadership.

IN HONOR OF UNITED STATES CUSTOMS SERVICE PORT OF CLEVELAND

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor the Bicentennial Celebration of the United States Customs Service Port of Cleveland.

The United States Customs Service Port of Cleveland has worked hard for two centuries to make the Port of Cleveland a respected and renowned international port. Due to their extraordinary efforts in making the Port of Cleveland a success, the City of Cleveland has flourished and become a distinguished international trade center for the new millenium.

Following in the tradition of the United States Customs Mission Statement, the employees at the Port of Cleveland truly are the guardians of Cleveland's borders, the Nation's borders and America's frontline. For the past two hundred years, the Port of Cleveland has indeed served and protected the American Public with integrity, innovation, and pride. Furthermore, the Port of Cleveland has achieved the purpose of enforcing the laws of the United States, safeguarding revenue, and fostering lawful international trade and travel.

Not only has the Port of Cleveland fulfilled their goals outlined in their mission statement, but they have recently won the Hammer Award for their leadership in bringing national attention to the Express Consignment Industry. Placing the U.S. Customs Port of Cleveland at the forefront of trade processing, the Port of Cleveland is sure to serve as a model to be exemplified by other U.S. Customs Service Ports of Entry. Congratulations to the United States Customs Service Port of Cleveland for two hundred years of hard work, service, and dedication.

My fellow colleagues, join me in honoring the Bicentennial Celebration of the United States Customs Service Port of Cleveland.

PROFILES OF SUCCESS HONORS MR. SILVESTRE HERRERA

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. PASTOR. I rise before you today to pay tribute to a man who has been a lifelong example of the courage and patriotism of the Latino soldier, Mr. Silvestre Herrera. Mr. Herrera is one of the few Mexican-Americans to earn the Congressional Medal of Honor. In Arizona, Mr. Herrera recently received the Hall of Fame Award at the Valle del Sol's Annual Profiles of Success Leadership Awards. Valle's award ceremony is the premiere Latino recognition event in Arizona each year that acknowledges Arizona's leaders and their contributions.

Silvestre's courageous actions in World War II display acts of great personal and physical sacrifice to support his fellow soldiers during combat in France. Then PFC Silvestre S. Herrera, Company E, 142nd Infantry Regiment, 36th Division, attacked two enemy strong points and captured eight enemy soldiers. He paid a high price for his bravery. He stepped on a land mine and had both feet severed. But despite intense pain and unchecked loss of blood, he pinned down the enemy with accurate rifle fire while a friendly squadron captured the enemy gun by skirting the minefield and rushing in from the flank.

In addition to being a two-time winner of a Profiles of Success award—he first won in the Special Recognition category—Silvestre has used his position as a recipient of one of the nation's highest honors for heroism to promote the Latino community in everything he does. From speaking to schoolchildren to representing veterans in military parades, he continues to give selflessly to the community of his time and wisdom.

Although he has been honored numerous times for his magnificent courage, extraordinary heroism and self-sacrifice, I ask you to again join me in paying tribute to a man who is a symbol of the courage shown by Mexican-Americans during our nation's wars. Please join me in thanking him and wishing him continued success.

TRIBUTE TO UNIVISION COMMUNICATION'S WXTV/CHANNEL 41

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Univision Communication's WXTV/Channel 41 for its continuing service to the Latino community in New York. In addition to its popular news program, ''Noticias 41'', today the station will launch New York's first early morning Spanish-language newscast, from 6 a.m. to 7 a.m.

Mr. Speaker, I ask my colleagues to join me in paying tribute and wishing continued success to Univision Communication's WXTV/Channel 41.

The following article, which appeared in the October 4 New York Daily News, discusses Univision and Channel 41 in more detail.

NEW YORK UNIVISION AFFILIATE LAUNCHES MORNING SPANISH-LANGUAGE NEWSCAST

At the Spanish-speaking Otero home in midtown Manhattan, David Otero doesn't have to think twice when asked about the family's favorite TV station.

''Channel 41—it's out of sight,'' said the bilingual 27-year-old. ''My mother likes the novelas and I like the comedies.''

So do tens of thousands of Hispanic New Yorkers who have made Univision Communication's WXTV/Channel 41 the metro area's

No. 1 Spanish-language station, drawing in about 122,625 households—more than four times that of its main rival, Telemundo's WNJU/Channel 47.

Today, the Univision station will try to grab even more of the TV viewing audience when it launches New York's first early morning Spanish-language newscast, a 6 a.m. to 7 a.m. version of its popular news program, ''Noticias 41.''

Hosted by Spanish broadcasting veterans Adhemar Montagne and Arly Alfaro, the show is aimed at drawing away Spanish speakers who now get their wake-up calls from English-language stations WCBS/Channel 2, WNBC/Channel 4, WNYW/Channel 5 and WABC/Channel 7.

The expansion of Univision's local news—which recently won two Emmy awards, a first for Spanish-language TV—comes in the middle of a hot streak at Channel 41, founded 31 years ago.

In an additional sign of its growing prominence, the station has several times in the past week surpassed WWOR/Channel 9, with programs like ''Noticias 41'' hosted by veteran Rafael Pineda outdrawing sitcom ''Sister, Sister,'' and novelas ''Soadoras'' overtaking ''In the House.''

Even Channel 2 took a recent beating from Univision when network newscast ''Noticiero Univision''—from 6:30 p.m. to 7 p.m.—overtook ''The CBS Evening News with Dan Rather.''

Channel 41's strides mirror the rise of New York's Latino community. The fastest-growing minority group in the region, which includes the city and its surrounding suburbs, Hispanics account for about 18 percent of the population, numbering 3.4 million.

''New York continues to be the historic point of entry,'' said Carey Davis, general manager of Hispanic radio stations WSKQ/97.9 FM and WPAT/93.1 FM.

As Channel 41 has stolen market share, its Los Angeles-based parent has prospered as well. Under Chairman Jerry Perenchio—a former Hollywood talent agent who represented Marlon Brando and Elizabeth Taylor before joining the network in 1992—the company's ratings growth has made it the nation's fastest-growing TV network.

A tough-minded manager, Perenchio refuses to allow any Univision executives to speak to the press, once even fining an employee who defied him. Perenchio and other Channel 41 executives refused Daily News requests for interviews.

While it has been widely reported that Perenchio doesn't even speak Spanish, he secured the long-term rights to some of the most popular programming in Latin America, generated by entertainment powerhouses Televisa of Mexico and Venezuela's Venevision, both of which own a stake in Univision.

As a result, the network gets a steady dose of novelas, the extremely popular soap-operalike miniseries that Channel 41 airs in prime time, starting with novelas for teens and racier ones as the night goes on.

One current hit is ''Camila,'' the story of a young woman in a small town whose husband leaves her behind for a job in the big city, where he's seduced by his boss' daughter.

''/[Novelas are] a way of life in Puerto Rico,'' said Millie Almodovar-Colon, a media buyer at Siboney USA, a Spanish advertising agency that represents Colgate-Palmolive and Denny's. ''My grandma watched them and my mom watched them,'' she added.

Univision's program monopoly puts Telemundo's Channel 47 at a big disdvantage, acknowledged that station's general manager, Luis Roldan.

''The novelas guarantee the minds, hearts and souls of the viewers,'' he said. ''We can't buy that programming.''

Last year, Telemundo, owned by Sony and AT&T's Liberty Media, tried to strike back, taking old shows like ''Charlie's Angels'' and reshooting them with a Hispanic cast. ''It bombed,'' Almodovar-Colon said.

While Channel 41 is the leader, Roldan is determined to narrow the gap. Telemundo has been pouring money into new programming recently, and Roldan said he is banking on new shows like ''Father Albert,'' a talk show hosted by a priest.

Even more important, Channel 47 secured the rights to broadcast Yankees, Mets and Knicks games in Spanish.

While Univision is making ratings strides, it remains a laggard when it comes to total advertising dollars. Last year, the station took in $50 million, abut one-sixth the sales of Channel 4.

That's because advertisers have historically poured fewer dollars into reaching Spanish-speakers even though their numbers are rising.

''It's racism and ignorance,'' Almodovar-Colon contended.

But she added that the tide has been changing for Spanish-language media as the explosive rise of entertainers like Ricky Martin, Jennifer Lopez and Marc Anthony draws attention to the city's Hispanic population.

Latino culture is becoming ''the hottest thing around,'' Almodovar-Colon said.

U.S. TRADE DEFICIT RISES AGAIN

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. LIPINSKI. Mr. Speaker, on September 21, the U.S. Department of Commerce issued its regular report on the U.S. trade deficit for the month of July. It should be no surprise to many of my colleagues in this chamber that the deficit has risen again. It has, in fact, grown to $25.2 billion, a 2.4 percent increase from June.

The U.S. deficit set new records with Japan, China, and Western Europe. Foreign products flood our shores, an there's nothing being done. In 1998, the U.S. trade deficits with China and Taiwan accounted for nearly one-third of the total U.S. trade deficit. The deficit with China alone skyrocketed from $3.5 billion in 1988 to nearly $60 billion in 1998, and Taiwan is consistently one of our top ten deficit trading partners.

Nobody seems to notice or care about this problem. Foreign trade becomes a larger and larger portion of our economy. Exports plus imports represent over twenty percent of the U.S. gross domestic product. We ignore it at our own peril. Most economists argue that the trade deficits do not matter. I strongly disagree. Even Alan Greenspan, Chairman of the Federal Reserve, said, ''unless reversed, our growing international imbalances are apt to create significant problems for our economy.''

Consequently, huge bilateral trade deficits means lost trading opportunities and ultimately means lost American jobs. While rosy unemployment figures hide the fact that over the last year 422,000 Americans lost good-paying manufacturing job to workers overseas, families continue to labor to make ends meet in low-paying service sector jobs.

While I recognize the fact that the U.S. Trade Representative has done much to improve market access, I strongly believe we can still make significant gains. Consider we have one of the largest markets in the world. Every nation wants to sell their product to us, and we must more effectively utilize this leverage. It comes down to a simple proposition. If foreign nations don't let us fairly sell American products in their markets, we shouldn't let them sell their products in America. We're only asking for what is fair. We're only asking for a level playing field, and we're not even getting that.

This is a real problem, and I submit that with most problems, there is usually a simple solution.

Mr. Speaker, I call upon the U.S. Trade Representative to step up efforts to tear down those tariff and non-tariff trade barriers that impede American exports to those nation, especially China and Taiwan. By opening up those huge consumer markets to American products, we can do so much for American workers. Open up those markets, level the playing field, increase American exports, and create American jobs. It's as simple as that.

GENERAL FEDERATION OF WOMEN'S CLUBS ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues the 75th Anniversary of the General Federation of Women's Clubs (GFWC) of Luzerne County. The GWFC will celebrate this milestone at a breakfast meeting on Saturday, October 9, 1999. I am pleased and proud to have been asked to participate in this event.

Since 1924, the GFWC has been a community-based, volunteer organization representing women of all ages. Early records show meetings held in two parts, the Board of Directors and a Presidents Meeting, which involved club presidents from all over the county in attendance. The purpose of the organization was to bring together the officers of all area women's clubs and consolidate various volunteer programs and projects. The Luzerne County GFWC currently consists of fourteen volunteer clubs representing almost 600 women of all ages.

Many worthy causes have benefited from the GFWC's efforts throughout the years. Federation Day, held in conjunction with Boscov's Department store, has brought thousands of dollars to area social service agencies. In the early 1980s, the GWFC donated almost $40,000 to the Domestic Violence Service Center to aid a shelter for battered women and children. Other GWFC projects have included supporting Drug Free School Zones signs for all area schools and universities, rooms for terminally ill patients at Hospic St. John, hearing aids for Wyoming Valley Childrens Association, a van for Catherine McCauley Center, wishes for terminally ill children under the Make A Wish Foundation, a rescue boat for the Luzerne County Sheriff's Office, and a beautiful new marquee for the Kirby Center.

The General Federation of Women's Clubs of Luzerne County is affiliated with the national GFWC in Washington, D.C. and the

Pennsylvania GFWC. Consisting of six departments—arts, conservation, education, home life, international affairs, and public affairs—the Federation's structure helps it address the needs of the community and respond to calls for help. Nationally, some twenty-seven million volunteer hours and more than $56 million have been donated to volunteer projects since 1996. Locally, the GFWC proudly joins in this massive volunteer effort each and every year. This year, the local club joins in the effort to assist our libraries, turning its volunteer resources to the America's Promise program to ''keep our library doors open.''

Mr. Speaker, the Luzerne County GFWC is an essential element in the high quality of life we enjoy in Northeastern Pennsylvania. These dedicated women take time out of their busy lives to touch the lives of thousands of others. I am proud to join with the community on this milestone anniversary in thanking the General Federation of Women's Clubs and its fourteen affiliates for 75 years of good work and community service. Northeastern Pennsylvania is truly richer through the hard work of these dedicated individuals.

RECOGNITION OF JEANNIE I. ROSOFF'S 30 YEARS OF COMMITMENT TO WOMEN'S REPRODUCTIVE HEALTH AND FREEDOM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. WAXMAN. Mr. Speaker, I rise today to honor Jeannie I. Rosoff, President of the Alan Guttmacher Institute, who will be retiring after 31 years of service, 20 of them as AGI's president. AGI, under Jeannie's leadership, has been an invaluable partner in working to protect and promote reproductive health and freedom.

During the years I served as Chairman of the House Subcommittee on Health and the Environment, and since, I have relied heavily on AGI's timely, relevant and reliable research and on its politically astute staff, all guided by Jeannie, to help advance us towards our mutual goal. Among the many programs that fell under my subcommittee's jurisdiction were Title X of the Public Health Service Act—the national family planning program—and Medicaid. As a result, the subcommittee became a focal point for legislative activity relating to reproductive health policy. During the time my tenure has overlapped with Jeannie's, we have made numerous efforts—some of them successful—to pass legislation reauthorizing Title X without debilitating amendments. We have fought off the squeal rule—a requirement that minors could only obtain contraceptive services with prior parental consent—and defended against the gag rule, which would have prohibited doctors at Title X clinics from providing women full information about their pregnancy options and prevented women from being able to give informed consent to their medical care. We have resisted repeated attempts by family planning opponents to dissolve Title X's categorical structure and to fold family planning services into a block grant to the states. We have fought against the countless legislative attacks on access to safe abortion services for indigent women, especially affecting those eligible for Medicaid. Finally, we have tried to promote a national approach to health care reform, which would have recognized comprehensive reproductive health care as an integral and legitimate part.

Many of these battles, both pro-active and reactive, will certainly continue in the years to come. I intend to continue to advocate for rational and compassionate federal policies on reproductive health and rights, and I know Jeannie will too, even if it is not in her official capacity anymore. After all, Jeannie was here in Washington in 1968, spearheading the effort to gain federal recognition of the important role of the national government in ensuring access to reproductive health services for all people. She advocated especially on behalf of those least able to advocate for themselves: poor women, young women and those otherwise disadvantaged. Indeed, she may well be considered the ''mother'' of title X, as she was the primary Washington advocate agitating for its introduction in 1968 and passage in 1970. Her innumerable contributions to furthering the cause of reproductive rights have been invaluable and lasting, perhaps most of all to those young women and poor women who will never know her name. And I know they will continue in the future.

For what she's done, and all she's been, I join the many, many others who say, thank you, Jeannie.

IN TRIBUTE TO J. WILLIAM ''BILL'' LITTLE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. GALLEGLY. Mr. Speaker, I rise to pay tribute to J. William ''Bill'' Little, who will retire as City Manager of Camarillo, California, this month after bringing it back from the precipice of bankruptcy.

As a former mayor of a neighboring city, I know firsthand how important it is to have someone of Bill Little's caliber at the helm. He is a low-key taskmaster who works quietly and effectively to ensure necessary assignments are accomplished. Eleven years ago, Camarillo suffered a $25 million loss to bad investments. Its budget was bleeding. The employee pension fund was bare. Then the city hired Bill Little.

Today, the city of 62,500 is thriving. In 1987, the city brought in $2.5 million in sales taxes. In 1998 it took in $6.3 million, thanks in large part to the upscale outlet mall and other retail endeavors Bill Little brought to Camarillo. Its credit rating has rebounded. It has money to spend to better the community.

Although Camarillo has long been in the center of the urbanized stretch of Ventura County, meeting planners previously bypassed it for ''more suitable'' locales. Today, Camarillo is recognized as a fine place to bring the east and west together. Under Bill Little's guidance, it has also become a center for high-tech firms.

Only a person with the rare gifts of both vision and ability could have made it happen. After tightening the city's belt and making it solvent, Bill Little led the way toward rebuilding the city's infrastructure, including a new water treatment plant and police station. Streets were widened, three interchanges off the Ventura Freeway were added, and the county was persuaded to build a new fire station in the city.

Those improvements made the city much more attractive to commerce, and commerce has responded enthusiastically.

Bill Little is also largely responsible for bringing Ventura County's first four-year university to Camarillo, a facility that will improve the educational and job opportunities for Ventura County residents for decades to come.

Bill and wife Mary will remain in Camarillo after he retires, enjoying the community he raised up from near catastrophe. The city owes Bill Little a debt of gratitude, but he's not one for such sentiments. He says he was just doing his job, but he did it quite well.

Mr. Speaker, I know my colleagues will join me in congratulating Bill Little for proving that the seemingly impossible can be done, for improving the lifestyle for the City of Camarillo and for all of Ventura County, and for accomplishing it all with understated class.

TRIBUTE TO PATRICIA C. JARRETT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. COBLE. Mr. Speaker, each year the National Industries for the Blind selects three of its employees to win national awards for service, manufacturing and career achievement. I am proud to say that this year's winner of the Milton J. Samuelson Career Achievement Award is from the Sixth District of North Carolina. The story of our winner, Patricia C. Jarrett of Greensboro, North Carolina, is one of the most inspirational you will ever hear.

One sunny summer day in 1977, Patricia went for an early morning walk on the beach. Her peaceful stroll was interrupted by a man with a gun who abducted her and shot her three times when she tried to escape. He left Patricia to die in a sand dune.

Luckily she was found, but just barely alive. One bullet lodged in Patricia's brain, a second had pierced her right shoulder, and the third struck her in the nose. When she regained consciousness, Patricia was as helpless as a newborn baby.

The damage was permanent. Patricia lost most of her vision along with her hearing in one ear. She was paralyzed on one side of her body. Patricia even had to relearn how to swallow and eat. Patricia completed the 10th and 11th grades of high school through a home tutoring program. She returned to school for the 12th grade winning the award for ''the most courageous senior.''

Fast forward several years to where Patricia met her future husband, Doug, at a church retreat conducted, ironically, at the beach. In 1991, Patricia entered a training program at Industries and business skills. She was hired as Sears TeleService Center where for four years she handled customer complaints and scheduled repair calls. In 1996, Patricia was hired by the organization which trained her, Industries of the Blind, as a receptionist and switchboard operator.

In her duties, she greets visitors, manages the switchboard, handles walk-in sales, and

processes mail for a manufacturing plant with more than 100 employees. In addition to her work responsibilities, Patricia has served on the Greensboro Mayor's Committee for Persons with Disabilities. She has been involved in initiatives to improve transportation opportunities for the disabled and has helped plan annual celebrations in recognition of the Americans with Disabilities Act. Patricia was even a 1996 torchbearer for the Paralympics relay that came through Greensboro on its way to Atlanta.

Now, Patricia is living a full life with no time allowed to feel sorry for herself. In addition to her job, Patricia enjoys spending time at home with her husband and their dog. Looking to the future, Patricia wants to obtain even more computer skills and grow in responsibility at the Industries of the Blind.

On behalf of the citizens of the Sixth District of North Carolina, we congratulate Patricia C. Jarrett on her national honor. We are thrilled that the National Industries for the Blind awarded Patricia with the 1999 Milton J. Samuelson Career Achievement Award. Patricia is living proof that the human spirit is greater than the evil which walks among us and that there are no limits placed upon any of us despite the hardships we may endure. Patricia's story is an inspiration to us all.

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

SPEECH OF

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong and stringent support of H.R. 764, the Child Abuse Prevention and Enforcement Act (CAPE Act). Victims of child abuse often suffer in silence and alone, and this legislation will help shine light on those who take advantage of our Nation's most vulnerable.

In the State of Michigan, every four minutes a child is reported abused or neglected. Statistics indicate that children who suffer the indignity of child abuse are far more likely to demonstrate future deviant behavior along the very same lines they suffered. Other Michigan statistics show that every 31 minutes a baby is born to a teenage mother, and every two days a child or youth is killed by a gun. How many of these additional statistics are directly related to prior child abuse?

By expanding the allowable uses of grant funds provided through law enforcement grants for child abuse prevention, States will have greater flexibility in crafting solutions to the problem. The measure allows grant money to be used for abused children to testify in court through closed circuit television instead of in person. It will also help social workers, child protective workers, and law enforcement officers gain access to criminal records and court documents necessary to safeguard the future placement of children currently in abusive situations.

This bill also provides an additional $10 million, increasing the total to $20 million for child protective services workers; training court appointed special advocates and child advocacy centers. These child advocacy centers will provide a centralized facility that unites all child examination and treatment services in one place. No longer will it be necessary to go from location to location in order to meet the needs of abused children.

Child abuse represents a present and future threat to the well being of our society. Through affirmative and prospective steps like the one we are taking today, we could minimize this threat. I support H.R. 764 because it is time we in Congress enact legislation that addresses future problems. H.R. 764 does this, and should serve as a precedent for future bipartisan cooperation in Congress to meet the present and future needs of the Nation.

CONGRATULATIONS TO PFIZER INC.

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. BEREUTER. Mr. Speaker, this Member rises today to congratulate Pfizer, Inc., on its 150th anniversary. Pfizer is one of the world's premier pharmaceutical companies, recognized for its success in discovering and developing innovative drugs for humans and animals. In its Lincoln, Nebraska, animal health facility, that is located in Nebraska's 1st Congressional District which this Member represents, Pfizer employs 736 men and women who have helped the company in offering its worldwide livestock and companion animal customers one of the broadest product lines in the industry.

German immigrant cousins Charles Pfizer and Charles Erhart founded Pfizer in 1849. From the start, the company sought to chart new courses. The company made many important breakthroughs and developed popular and effective drug treatments in its first 75 years. Pfizer medicines were heavily relied upon by Union Forces during the Civil War, and its ability to mass-produce penicillin in 1944 saved many lives on the front lines of Europe during World War II.

During the era that followed World War II, Pfizer continued in its search for effective antibiotics. Soon, Pfizer began opening plants worldwide and was on its way to developing into an international powerhouse. Today, Pfizer products are available in 150 countries.

In the 1970s, Pfizer began to devote much of its resources to research and development, making long-term investments that would pay off years later. Those investments not only benefited the company, but also the millions of people around the world who have relied on Pfizer drugs to treat a variety of conditions.

From the first Pfizer innovation to the high-performance medicines of today, throughout its 150 years Pfizer has been driven by pioneers—people who were willing to take risks to make the advances that made history. Today, the company spends close to $2.8 billion annually on Research and Development in a wide range of challenging medical fields. Pfizer employees, including the 736 men and women who work in this Member's District, go to work each day dedicated to improving our nation's health.

PERSONAL EXPLANATION

HON. FRANK MASCARA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. MASCARA. Mr. Speaker, I was unavoidably detained on October 5, 1999 and, as a result, missed rollcall votes numbered 474 through 478: on passage of the National Medal of Honor Memorial; on Commending the Battle of the Bulge Veterans; on the Jackson-Lee (TX) Amendment to McCollum Substitute Amendment; and on the Jones (OH) Amendment to McCollum Substitute Amendment to the Child Abuse Prevention and Enforcement Act. Had I been present, I would have voted ''yea'' on the aforementioned rollcall votes.

COMMENDING GARRISON KEILLOR, NATIONAL MEDAL OF THE ARTS WINNER

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. VENTO. Mr. Speaker, I rise to congratulate a great Minnesota and American humorist, Garrison Keillor. Keillor, best-selling author and radio host of ''A Prairie Home Companion,'' was recently awarded the 1999 National Humanities Medal at a ceremony at Constitution Hall in Washington, D.C. Keillor was one of only 20 individuals selected by the White House to receive the National Medal of the Arts and Humanities for supporting the growth and availability of the arts and humanities to the American public.

During the long, cold Minnesota winters and mosquito-infested summers, the characters of his fictitious small town, Lake Woebegon, make us laugh and remind us of the common human thread that runs through all our communities. And Mr. Keillor doesn't just stick to fictitious characters. With no shortage of raw material, he sometimes takes jibes at us politicians in Minnesota. But we don't mind too much because as Mr. Keillor writes:

''In Minnesota, you learn to avoid self-pity as if it were poison ivy in the woods. Winter is not a personal experience; everyone else is as cold as you are; so don't complain about it too much.''

Garrison, I commend you for this great accomplishment. Keep writing, keep telling us your stories and keep us laughing.

I submit the remarks by President Clinton at the National Medal of the Arts and Humanities Dinner as well as a September 30 Associated Press article listing all the 1999 Medal of the Arts and Humanities winners for the RECORD.

REMARKS BY THE PRESIDENT AT NATIONAL MEDAL OF THE ARTS AND HUMANITIES DINNER

SEPTEMBER 29, 1999

The President: Ladies and gentlemen, welcome to the White House. A special welcome to all of our honorees of the National Medals of Arts and Humanities. The nice thing about this evening, apart from being here in America's House slightly before we celebrate its 200th birthday, is that there are no speeches and lots of entertainment—unless, of course, Mr. Keillor wants to substitute for me at this moment. I'll be living down that

crack I made about him for the rest of my life.

I want to say again, as I did today and as Hillary did, that this is one of the most enjoyable and important days of every year to us, because it gives America a chance to recognize our sons and daughters who have enriched our lives, made us laugh, made us think, made us cry, lifted us up when we were down. In so many ways, all of you have touched so many people that you will never know. But in all of them accumulated, you have made America a better place, you've made the world a finer place.

And as we look to the new century, I hope that as time goes on we will be known more and more for things beyond our wealth and power, that go to the wealth and power of our spirit. Insofar as that happens, it will be because of you and people like you. And it was a privilege for all of us to honor you today.

I would like to ask all of you here to join me in a toast to the 1999 winners of the Medal of Arts and the Medal of Humanities. And welcome. Thank you.

ARTS MEDALS

(By Joseph Schumann)

WASHINGTON (AP).—As Aretha Franklin, Steven Spielberg and August Wilson passed through a White House receiving line, President Clinton was overheard telling one guest, ''If I could make Keillor laugh, I knew that I had achieved.''

Humorist Garrison Keillor, director Spielberg, soul diva Franklin, playwright Wilson, and 14 others, as well as the Juilliard School for the performing arts, were awarded national arts and humanities medals Wednesday, chosen by the White House as American cultural treasures.

The medals go to individuals or institutions supporting the growth and availability of the arts and humanities to the general public.

''It gives America a chance to recognize our sons and daughters who have enriched our lives, made us laugh, made us think, made us cry, lifted us up when we were down,'' Clinton said at a White House dinner honoring the medal winners.

Earlier in the day, Clinton referred to Keillor—a writer and radio impresario best known for his public radio show, ''A Prairie Home Companion''—as ''our modern-day Mark Twain.''

''With imagination, wit and also with a steel trap mind and deep conviction, Garrison Keillor has brought us together,'' said the president.

He said Keillor's humor and variety show about life in a fictitious small town in Minnesota ''constantly reminds us how we're all connected and how it ought to keep us a little humble.''

At a ceremony at Constitution Hall near the White House, Clinton said this year's winners of the National Medal of Arts and the National Humanities Medal ''defined in their own unique ways a part of who we are as a people and what we're about as a nation as we enter a new century and a new millennium.''

American Indian ballet dancer Maria Tallchief and folk singer Odetta were among the musicians, writers and arts patrons so honored this year.

Odetta's 50 years of performing American folk and gospel reminds ''us all that songs have the power to change the heart and change the world,'' Clinton said.

Tallchief helped put an American stamp on classical ballet, until recent decades a primarily European discipline, Clinton said.

The 1999 winners of the National Medal of the Arts are:

—Arts patron Irene Diamond, who gave more than $73 million to the arts through foundations and personal gifts.

—Franklin, the ''Queen of Soul'' who has won 17 Grammys.

—Designer and architect Michael Graves, who created some of century's most admired structures, including the Riverbend Music Center in Cincinnati.

—Odetta, the ''Queen of American Folk Music,'' who created a groundbreaking sound with her voice and guitar.

—The Juilliard School of performing arts in New York, which includes among its alumni comedian-actor Robin Williams, cellist Yo-Yo Ma and jazz and classical trumpeter and composer Wynton Marsalis.

—Writer and director Norman Lear, who created some of the century's most popular television social comedies, including ''All in the Family,'' ''Good Times'' and ''The Jeffersons.''

—Actress and producer Rosetta LeNoire, who boasts a more than 60-year career that includes numerous movies, Broadway productions and TV shows, including ''Family Matters'' and ''Amen.''

—Arts administrator Harvey Lichtenstein, who was president of the Brooklyn Academy of Music for 32 years and established it as a leading arts center.

—Singer Lydia Mendoza, who brought Mexican-American music to the public's attention and became famous in Latin America with her signature song, ''Mal Hombre.''

—Sculptor George Segal, who made a career of sculpting environments, including a life-sized bread line at the Franklin Delano Roosevelt Memorial in Washington.

—Tallchief, who was the New York City Ballet's longtime prima ballerina.

The 1999 winners of the National Humanities Medals are:

—Librarian Patricia M. Battin, who organized a national campaign to save millions of decaying books by putting their content on microfilm.

—Pulitzer Prize-winning writer and journalist Taylor Branch, whose books, including ''Parting the Waters: America in the King Years,'' made him an authority on the civil rights movement.

—New South scholar Jacquelyn Dowd Hall, who founded the Southern Oral History Project at the University of North Carolina-Chapel Hill.

—Keillor, best-selling author and radio host of ''A Prairie Home Companion.''

—Television anchor and editor Jim Lehrer, host of a public television news program named for him.

—Political philosopher and author John Rawls, renowned for his views on justice, basic rights and equal opportunity.

—Academy Award-winning filmmaker Spielberg.

—Pulitzer Prize-winning playwright Wilson whose plays, including ''The Piano Lesson'' and ''Fences,'' explore the black experience in America. Wilson is formerly of St. Paul.

UNITED NATIONS' POPULATION FUND (UNFPA) WORK IN KOSOVO

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. CROWLEY. Mr. Speaker, I would like to call attention to the work UNFPA is doing in Kosovo. UNFPA is helping Kosovo rebuild from the war, improving medical care for men, women and children, making deliveries safer, and providing a full range of healthcare services. While the war is over, UNFPA is continuing its work to improve the quality of life and healthcare for Kosovar Albanians.

Mr. Speaker, to answer critics who are questioning their work and commitment in Kosovo, I submit the following explanation of their work into the CONGRESSIONAL RECORD.

UNFPA'S WORK IN KOSOVO

The United Nations Population Fund (UNFPA) is working in Kosovo as part of the United Nations humanitarian and development effort. The United Nations has set up a civil administration in the province of Kosovo, under Security Council Resolution 1244 (1999) of 10 June 1999. UNFPA is working along with other United Nations agencies in Kosovo and is a cooperative partner in the health sector under the leadership of the World Health Organization (WHO). As in all its programmes, UNFPA strictly adheres to internationally agreed human rights conventions and standards and to the Programme of Action of the International Conference on Population and Development, held in Cairo in 1994.

UNFPA'S EMERGENCY RELIEF OPERATIONS

When the refugee crisis in Kosovo began, UNFPA responded quickly to ensure that those fleeing the province had access to critical reproductive health services. The Office of the United Nations High Commissioner for Refugees (UNHCR), the lead United Nations agency responsible for refugees, formally asked UNFPA to serve as co-ordinator for reproductive health service. The Fund conducted a rapid needs assessment from 6 to 13 April 1999; sent materials, supplies and equipment for safe delivery, safe blood transfusion, treatment of sexually transmitted diseases, management of miscarriages, and treatment for victims of sexual violence. Also, a total of 350,000 packets of sanitary towels and 14,000 pairs of underwear were purchased for distribution during the crisis.

In essence, UNFPA's major contribution to meeting the needs of the Kosovo refugees was to supply emergency reproductive health kits and other reproductive health equipment to refugee camps in Albania and the former Yugoslav Republic of Macedonia and to maternity hospitals throughout Albania. UNFPA procured emergency reproductive health kits to meet the needs of approximately 350,000 people for a period of 3 to 6 months. In Albania, emergency reproductive health kits were supplied to refugee camps in Kukes, Korca and Elbasan and to a total of 10 hospitals and maternity clinics. In addition, UNFPA facilitated the donation of two ultrasound machines from a private company to the Albanian Ministry of Health.

UNFPA's emergency reproductive health supplies included:

Individual clean delivery kits for use if medical facilities are unavailable. The kit includes soap, plastic sheeting, pictorial instructions and a razor blade to cut the umbilical cord;

Delivery equipment—for use by trained personnel to deal with both normal and complicated deliveries, as well as referral-level equipment to be used in hospitals to perform Caesarean sections and to resuscitate mothers and babies;

Sexually transmitted diseases (STD) kit—intended to diagnose and treat STDs and explain how to prevent contraction;

Safe blood transfusion equipment;

Then, in early May, UNFPA sent an expert on the treatment of sexual violence and war trauma to assess the needs of women victims of such violence. Interviews with them showed that a considerable degree of sexual violence had occurred and that there were urgent needs for the treatment and counselling of women, their families and communities. UNFPA set up a training programme for health and relief workers of non-governmental organizations (NGOs) working with

refugees and for international and national medical staff in Albania and the former Yugoslav Republic of Macedonia.

REHABILITATION OF KOSOVO

Following the cessation of hostilities and the return of refugees to Kosovo, UNFPA, along with other United Nations agencies, quickly established an office in Pristina, the capital of the province. As part of the civil administration authorized by the United Nations Security Council, UNFPA is a member of the Joint Civil Commission on Health, which is responsible for developing health policy and which includes representatives from the United Nations and from all of the communities in Kosovo. UNFPA heads the Reproductive Health Policy Task Force of the Joint Civil Commission and the Reproductive Health Coordination Committee, which includes representatives of all the United Nations bodies, NGOs and bilateral aid agencies working in reproductive health. The Policy Task Force has worked with the Kosovo Institute of Public Health, a local organization, to draw up a Reproductive Health Policy, which will guide the work of all organizations as they undertake the rehabilitation of the province.

UNFPA'S PRIORITY AREAS

The main concern of the United Nations in the area of health is to help reestablish the public health system in the province in order to meet the health needs of all the people of Kosovo. The overall needs throughout the province are overwhelming, and most of the health infrastructure has not been properly maintained; much of it was destroyed or removed during the recent hostilities. Equipment in hospitals is either obsolete and/or broken, including such basic equipment as washing machines and incubators for premature babies. Many health facilities have been left in decay, with broken windows, useless heating systems, and little or no functioning equipment.

The maternity, obstetric and gynecological clinic in Pristina delivers some 30 to 40 babies per day; it is on target to deliver 12,000 babies in the coming year, which would give it the largest number of deliveries of any hospital in Europe. It is achieving this with one broken-down washing machine and a shortage of sheets, gowns, incubators and ultrasound machines. On particular busy days, it does not have enough cribs in which to put the newborns, even when they are doubled up. Many of the deliveries are premature, born to women who suffered great trauma and stress during the hostilities. The World Health Organization (WHO) estimates that almost 50 percent of premature infants born in the Pristina Hospital do not survive. Other problems related to the effects of the hostilities are a higher-than-normal incidence of miscarriages and still births, both of which put the lives of mothers at risk. Conditions are equally poor, if not worse, in maternities and health centres outside Pristina. In light of the above, it is essential to upgrade the equipment of the maternity at the Pristina Hospital and in other regions of Kosovo, as a critical first step in safeguarding maternal and child health within the overall context of the rehabilitation of the health system of Kosovo.

UNFPA is playing a key role in the area of reproductive health by helping to assess reproductive health conditions and needs; by supplying urgently needed equipment, materials, and medicines for hospitals, primary health facilities and mobile clinics; by providing training and support for health staff; and by supporting health information and education programmes. UNFPA has begun work with its other partners in Kosovo in drawing up a standard reproductive health-training curriculum for health workers in the province. It is designed to raise their awareness of reproductive health needs and to provide basic and refresher training in basic reproductive health skills.

The issue of sexual and other violence against women in Kosovo is a very serious issue. UNFPA has sent an expert on sexual violence to the province to report on ways in which the health system and health workers in Kosovo can address these issues in a culturally sensitive manner. Another component of UNFPA's strategy in the area of health, education and community services focuses on mental health, particularly the mental health of women. Violations of human rights and human dignity have been used as a systematic way of conducting war and have left profound scars that may not disappear. Victims of torture or violence, be it physical, sexual or psychological continue to suffer from significant trauma. To provide counselling and to prevent ostracism and exclusion of the victims from their own communities, UNFPA will continue to help strengthen local community capacity to provide care and support to women and men in distress.

There is an urgent need in Kosovo for demographic and health status of Kosovo since the return of the refugees in June this year. Given the new situation, all prior census and other data—if they can be found—are obsolete. All relief organizations working in the province are looking for such information to use in their operations. To that end, UNFPA and the International Organization for Migration (IOM) jointly organized a preliminary mission to assess the feasibility of a cluster sample population survey in Kosovo. The two organizations have developed a proposal for a survey of about 9,500 households. The results of the survey will be made available to all interested agencies and to the public.

Therefore, as priority measures for emergency relief and rehabilitation in Kosovo, UNFPA is preparing to undertake three crucial projects in the short term: upgrade the equipment of the maternity/OB–GYN department of Pristina hospital, and to provide basic equipment and supplies to maternities and ''birthing centers'' elsewhere in the province; strengthen local capacity to identify members of the community who need psycho-social support and to provide care and support to these women and men; and undertake an urgently needed demographic, socio-economic and reproductive health survey of the province.

TRIBUTE TO DARRELL W. OPFER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Ms. KAPTUR. Mr. Speaker, I rise today to recognize the lifelong contributions that Representative Darrell W. Opfer has made to Ohio and more specifically, the Fifty-Third Ohio House District. For the last seven years, Darrell has been the epitome of a public servant in the Ohio House of Representatives. He works tirelessly to represent both Ohio and his district to the best of his ability, and for this we are greatly indebted. On behalf of Ohio's lawmakers and citizens, I am pleased and honored to pay tribute to this outstanding leader.

Born and raised Elmore, Ohio, Darrell has been a resident of Ottawa County and the Fifty-Third district his entire life. After completing bachelor's and master's degrees from Bowling Green State University, he entered the Peace Corps as a volunteer school teacher, instructing schoolchildren in East Africa. Upon his return, he spent sixteen years teaching high school government and social studies at Genova High School.

Darrell began his political career by serving as an Ottawa County Commissioner for ten years. During this time, he helped form the Ottawa County Visitors Bureau and the Community Improvement Corporation. These organizations have improved the quality of life in his district, as each implemented programs to create more jobs and support local businesses.

Darrell was elected to the Ohio House of Representatives, where during his first term he became known for his bipartisanship. During his tenure in the Ohio General Assembly, he was a member of the Agriculture and Natural Resources Committee, Finance and Appropriations Committee, Local Government and Townships Committee and Veteran's Affairs Committee. He was also the ranking minority member of the Agriculture and Development Subcommittee. In his last two terms in office, he was dedicated to bringing about electric deregulation, attempting to meet the needs of schools, local government, industry, customers, and public utilities. Through his career Darrell passed a remarkable amount of legislation, personally sponsoring 30 bills and cosponsoring 718 others. During his years of service in Columbus, he never missed a session of the Ohio House of Representatives and never missed a vote. In 1991, he earned the Outstanding Chief Elected Official Award, presented by Ohio Training Directors Council. His steadfast dedication in representing his district as an Ohio House Member was only interrupted by state mandated term limits.

Darrell has always been wise counsel to other elected officials and community leaders, quietly building coalitions on issues, bringing various points of view together in discussions, and offering his expertise with myriad concerns. Throughout his years as a Commissioner and State Representative, I have sought his advice many times and know him to be a man possessed of great skill and a wealth of knowledge. He has truly been an invaluable resource for all Ohioans and for us in Northwest Ohio.

Upon Darrell Opfer's retirement from the State House, the prosperity of Ottawa County and jobs for its residents continue to drive his ambitions. After careful consideration, he accepted the position of director of Ottawa County's economic development program. He plans to use his government, utility, and business acumen to further economic development throughout Ottawa County.

Walter Lippman once said, ''The final test of a leader is that he leaves behind him in other men the conviction and the will to carry on. . . . The genius of a good leader is to leave behind him a situation which common sense, without the grace of genius, can deal with successfully.'' The work of Darrell Opfer has made out state a better place to live. On behalf of the entire Ohio community, I would like to thank you, Darrell, for your loyalty and service to our state and your district. We will certainly miss your skills as a legislator, but you know that you will continue your dedication to leadership and service in your new position. Good luck and God bless.

COMMEMORATING THE 88TH ANNIVERSARY CELEBRATION OF THE NATIONAL DAY OF THE REPUBLIC OF CHINA

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. PELOSI. Mr. Speaker, today, I rise to pay tribute to a special occasion. In San Francisco we are celebrating the 88th Anniversary of the National Day of the Republic of China, known as the ''Double Tenth'' celebration of freedom day.

The people of the United States have a strong bond with and commitment to the people of the Republic of China [Taiwan] who have demonstrated to the world their pledge to democracy. The Republic of China continues to be a prosperous, colorful nation of peoples and interests characterized by strong economic growth and respect for basic human rights and democratic freedoms.

The Republic of China is an important partner of the United States—economically, culturally, strategically, and politically. It is my privilege to congratulate the celebrants of the ''Double Tenth'' festival of freedom. I am proud to voice the support and best wishes of the Republic of China's many friends in Congress and look forward to celebrating this historic event in the years ahead.

CO-OPS IMPORTANT TO ARKANSAS

SPEECH OF

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 1999

Mr. BERRY. Mr. Speaker, throughout my district and throughout rural America, cooperatives are the lifeblood of communities. Cooperatives are made up of groups of people who work together to product results above and beyond what any one member could accomplish alone. Cooperatives embody the characteristics of hard work, economic liberty, interdependence, and togetherness that have defined American business and society throughout history.

In the 1st District of Arkansas, cooperatives provide electricity, farm supplies, and other services and products to residents. These businesses generate economic activity that fuels local economies, while providing savings to local citizens.

For years co-ops have provided great benefits to farms across Arkansas by selling fertilizer, marketing crops, and performing services that otherwise would be much more expensive. I am proud that cooperatives play such a vital part of the communities in my district. It is very fitting we celebrate co-ops' important contributions by recognizing October as National Cooperative Month.

NATIONAL COOPERATIVE MONTH

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. KIND. Mr. Speaker, I rise today to recognize the important contribution of cooperatives to the economic health of the nation. October, after all, is National Cooperative Month. Cooperatives represent economic opportunity for nearly 40% of Americans who are members of a cooperative. Cooperatives come in many forms—rural electric, agriculture, telephone, credit unions, consumer co-ops and more.

This year commemorates the 155th anniversary of the cooperatives as we know them today. In 1844, the Rochdale Society of Pioneers in England formalized cooperative activity by writing down their principles and practices. These principles and practices are the basis of today's cooperative enterprises, which serve more than 600 million people in every country in the world.

In the United States, about 30 percent of farmers' products and farm supplies in the United States are marketed through cooperatives. Rural electric cooperatives operate more than half of the electric distribution lines in the United States and provide electricity for more than 25 million people. Consumer-owned and controlled cooperatives pioneered prepaid, group-practice health care. Today cooperative health-maintenance organizations (HMOs) provide health-care services to more than one million Americans. Moreover, credit unions have more than 63 million members and assets in excess of $100 billion.

In my home state of Wisconsin, 2.9 million citizens depend on more than 800 cooperatives to market and supply agriculture products, as well as to provide credit, electricity, telephone service, health care, housing, insurance, and numerous other products and services. Cooperative businesses employ approximately 20,000 Wisconsin residents. Cooperatives provide hundreds of millions of dollars in annual economic activity in Wisconsin and pay millions of dollars annually in taxes.

Cooperatives have a rich history in my home state, with Wisconsin being one of the first states in the nation to enact a law authorizing cooperatives in 1887. A young woman—Anne Pickett—started Wisconsin's first dairy cooperative in 1841, pooling milk from neighborhood farms, processing it into our state's world class cheese and shipping it to the ''big city'' of Milwaukee for sale.

In addition, the nation's cooperative marketing of livestock had its beginnings in Wisconsin during the 1920s, when local livestock shipping associations organized at rail points to ship livestock to a terminal market.

Mr. Speaker, cooperatives are owned by their members who come together to meet their common economic, social, and cultural aspirations through a jointly owned and democratically controlled enterprise. Member-owned cooperatives elect a board of directors who determine its management structure and direction. Cooperatives are everywhere, helping people meet their common needs through group effort.

Like everything else in today's world, cooperatives are changing to meet today's challenges. During this Month, let us pay tribute to the important role that cooperatives have played in the tremendous economic success of our nation.

CELEBRATING THE SUCCESS OF EMILY COLE

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. GREEN of Texas. Mr. Speaker, I rise today to pay special tribute to Emily Cole, principal of Jefferson Davis High School in Houston, Texas. Ms. Cole has been principal of Jefferson Davis High School for the last 11 years and has been an educator for 34 years. As a Jeff Davis graduate, I am especially proud to join in paying tribute to her.

Emily Cole earned a BA and M.Ed from Southwest Texas State University in San Marcos. Ms. Cole was the first in her family to earn a college degree. Education has always been a major part of her life. She has worked as a teacher in several elementary schools in Texas, as the associate director of the Teacher Corps at the University of Houston, and as an assistant principal and principal in Houston public schools.

Ms. Cole has spent her career working tirelessly on behalf of all children. She has always promoted what was best for school children, never forgetting that their best interest was her driving force.

During her tenure at Jefferson Davis High School, Emily Cole has made many improvements. The number of seniors receiving scholarships has increased, TAAS scores have risen, the dropout rate has decreased and the number of graduates has grown.

In addition, Ms. Cole has used Project GRAD (Graduation Really Achieves Dreams) to increase the number of college-bound students at Jefferson Davis High School. Project GRAD was started 10 years ago by Jim Ketelsen, former Tenneco chief executive officer, as a scholarship program. It now provides a comprehensive college-preparatory curriculum to students beginning in the elementary grades. Before the program was started at Jefferson Davis High School, only 20 graduates per year went to college. In 1998, 110 Davis graduates enrolled in college.

American historian and writer Henry Adams once stated that ''a teacher affects eternity; he can never tell when his influence stops.'' For Emily Cole, the lives she has touched over her many years in the education field will ensure that her influence carries on far into the future.

I ask my colleagues to join me in honoring the career of one of Texas' education heroes as principal of Jefferson Davis High School. Ms. Cole, we wish you well.

RECOGNIZING DR. EARL F. SKELTON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 6, 1999

Mr. SKELTON. Mr. Speaker, today, I wish to recognize the outstanding achievements of Dr. Earl F. Skelton, who recently retired from the Naval Research Laboratory (NRL) after 32 years.

Dr. Skelton has made tremendous contributions to science through his research and teaching. He earned a Bachelor of Science in

Physics from Fairleigh Dickinson University in 1962 and received his Ph.D. in Physics in 1967 from the Rensselaer Polytechnic Institute.

A leader in scientific research, Dr. Skelton has served in many research positions. From 1961–1962, he served as Research Physicist at Benet Weapons Laboratory. In 1967, Dr. Skelton served as Research Associate at Rensselaer Polytechnic Institute and as a National Research Council Postdoctoral Associate at NRL. He was a Research Physicist at NRL from 1968–1976. In 1978, Dr. Skelton worked in the U.S. Embassy in Tokyo, Japan, as Liaison Scientist for the Office of Naval Research. After returning to the United States, Dr. Skelton served as an Associate Member with the Laboratory for High Pressure Science at the University of Maryland from 1977 to 1980. The following year, he was a Visiting Scholar in the Stanford University Synchrotron Radiation Laboratory. Additionally, Dr. Skelton was a Research Affiliate from 1982 through 1986 for the Hawaii Institute of Geophysics. Dr. Skelton served as the Supervisory Research Physicist at the Naval Research Laboratory from 1976 until his recent retirement in September 1999.

In addition to his many research positions, Dr. Skelton also worked in a variety of academic positions at several accredited institutions. From 1968 through 1973, Dr. Skelton lectured in Physics for Prince George's Community College. He also served as an Associate Professional Lecturer at George Washington University for five years. From 1975 to 1980, Dr. Skelton was a Graduate School Lecturer at the University of Maryland. Since 1972, Dr. Skelton has been a National Research Council Postdoctoral Advisor at NRL. He has also been a Professorial Lecturer at George Washington University since 1979. Currently, Dr. Skelton is the Adjunct Professor of Engineering in the School of Engineering and Applied Science at George Washington University.

Throughout Dr. Skelton's career, he has received many honors and awards in science. He was awarded seven Research Publication Awards from the NRL since 1977. In addition, Dr. Skelton received the U.S. Navy Technology Transfer Award and the Pure Science Award from the Society of the Sigma Xi. He was elected to the Users' Executive Committee at both the Brookhaven National Laboratory and Stanford University. In 1980, Dr. Skelton was elected Fellow by the American Physical Society. He also received the Yuri Gargaran Satellite Communication Award and Medal.

Dr. Skelton authored or co-authored over 300 publications, and he has been awarded five patents for his research findings. Dr. Skelton has also organized and led a multinational team to create a new beam line at the National Synchrotron Light Source at Brookhaven National Laboratory.

In addition to his scientific findings and teachings, Dr. Skelton has researched and written a variety of pieces regarding family genealogy and other topics. He has published 13 non-technical publications and received the Best Writing Award from the National Genealogical Society.

Mr. Speaker, Dr. Earl F. Skelton, has been a significant leader in scientific research for many years. His expertise and leadership have contributed greatly to the field of science and to future scientists. Dr. Skelton is my cousin, and also a dear friend of mine. I know the House will join me in paying tribute to this outstanding scientist and wishing him and his family—his wife Francesca, his daughter Diana, and his son, Isaac—all the best in the years ahead.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 7, 1999 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 12

2 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on the Perry Report and North Korea policy.
SD–419

OCTOBER 13

9:30 a.m.
Armed Services
SeaPower Subcommittee
To hold hearings on the force structure impacts on fleet and strategic lift operations.
SR–222

Indian Affairs
To hold hearings on S. 1507, to authorize the integration and consolidation of alcohol and substance programs and services provided by Indian tribal governments.
SR–485

Health, Education, Labor, and Pensions
To hold hearings to examine pain management and improving end of life care.
SD–430

10 a.m.
Judiciary
To hold closed hearings to examine Chinese espionage at United States nuclear facilities and the transfer of United States technology to China.
S–407, Capitol

2:30 p.m.
Foreign Relations
To hold hearings on numerous tax treaties and protocols.
SD–419

Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 167, to extend the authorization for the Upper Delaware Citizens Advisory Council and to authorize construction and operation of a visitor center for the Upper Delaware Scenic and Recreational River, New York and Pennsylvania; S. 311, to authorize the Disabled Veterans' LIFE Memorial Foundation to establish a memorial in the District of Columbia or its environs; S. 497, to designate Great Kills Park in the Gateway National Recreation Area as ''World War II Veterans Park at Great Kills''; H.R. 592, to redesignate Great Kills Park in the Gateway National Recreation Area as ''World War II Veterans Park at Great Kills''; S. 919, to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the Corridor; H.R. 1619, to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the Corridor; S. 1296, to designate portions of the lower Delaware River and associated tributaries as a component of the National Wild and Scenic Rivers System; S. 1366, to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreation River on land owned by the New York State; and S. 1569, to amend the Wild and Scenic Rivers Act to designate segments of the Taunton River in the Commonwealth of Massachusetts for study for potential addition to the National Wild and Scenic Rivers System.
SD–366

OCTOBER 14

9:30 a.m.
Armed Services
To hold hearings on the lessons learned from the military operations conducted as part of Operation Allied Force, and associated relief operations, with respect to Kosovo; to be followed by a closed hearing (SR–222).
SD–106

Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the devastating impact that diabetes and its resulting complications have had on Americans in both human and economic terms.
SD–628

2:30 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1218, to direct the Secretary of the Interior to issue to the Landusky School District, without consideration, a patent for the surface and mineral estates of certain lots; S. 610, to direct the Secretary of the Interior to convey certain land under the jurisdiction of the Bureau of Land Management in Washakie County and Big Horn County, Wyoming, to the Westside Irrigation District, Wyoming; S. 1343, to direct the Secretary of Agriculture to convey certain National Forest land to Elko County, Nevada, for continued use as a cemetery; S. 408, to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the City of Carson City, Nevada, for use as a senior center; S. 1629, to provide for the exchange of certain land in the State of Oregon; and S. 1599, to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Black Hills National Forest and to use

funds derived from the sale or exchange to acquire replacement sites and to acquire or construct administrative improvements in connection with Black Hills National Forest.
SD–366

OCTOBER 15

9 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine quality management at the Federal level.
SD–628

OCTOBER 19

10 a.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1608, to provide annual payments to the States and counties from National Forest System lands managed by the Forest Service, and the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands managed predominately by the Bureau of Land Management, for use by the counties in which the lands are situated for the benefit of the public schools, roads, emergency and other public purposes; to encourage and provide new mechanism for cooperation between counties and the Forest Service and the Bureau of Land Management to make necessary investments in federal lands, and reaffirm the positive connection between Federal Lands counties and Federal Lands; and for other purposes.
SD–366

2:30 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 1365, to amend the National Preservation Act of 1966 to extend the authorization for the Historic Preservation Fund and the Advisory Council on Historic Preservation; S. 1434, to amend the National Historic Preservation Act to reauthorize that Act; and H.R. 834, to extend the authorization for the National Historic Preservation Fund.
SD–366

OCTOBER 20

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the use of performance enhancing drugs in Olympic competition.
SR–253

Indian Affairs
To hold hearings on proposed legislation authorizing funds for elementary and secondary education assistance, focusing on Indian educational programs.
SR–285

OCTOBER 21

9:30 a.m.
Armed Services
To resume hearings on the lessons learned from the military operations conducted as part of Operation Allied Force, and associated relief operations, with respect to Kosovo; to be followed by a closed hearing (SR–222).
SD–106

OCTOBER 26

2:30 p.m.
Armed Services
Readiness and Management Support Subcommittee
To hold hearings on the Real Property Management Program and the maintenance of the historic homes and senior offices' quarters.
SR–222

OCTOBER 27

9:30 a.m.
Indian Affairs
To hold oversight hearings on the implementation of the Transportation Equity Act in the 21st Century, focusing on Indian reservation roads.
SR–485

CANCELLATIONS

OCTOBER 26

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 882, to strengthen provisions in the Energy Policy Act of 1992 and the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to potential Climate Change.
SD–366

Daily Digest

HIGHLIGHTS

Senate agreed to the conference report on Foreign Operations Appropriations.

House committee ordered reported 7 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S12051–S12146

Measures Introduced: Eleven bills and one resolution were introduced, as follows: S. 1694–1704 and S. Res. 197. **Page S12101**

Measures Reported: Reports were made as follows:

S. 1398, to clarify certain boundaries on maps relating to the Coastal Barrier Resources System, with an amendment in the nature of a substitute. (S. Rept. No. 106–171)

S. 769, to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for the construction of the bascule gates on the Dickinson Dam, with an amendment. (S. Rept. No. 106–172)

S. 986, to direct the Secretary of the Interior to convey the Griffith Project to the Southern Nevada Water Authority, with an amendment in the nature of a substitute. (S. Rept. No. 106–173)

S. 1030, to provide that the conveyance by the Bureau of Land Management of the surface estate to certain land in the State of Wyoming in exchange for certain private land will not result in the removal of the land from operation of the mining laws, with an amendment. (S. Rept. No. 106–174)

S. 1211, to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, with an amendment. (S. Rept. No. 106–175)

S. 1288, to provide incentives for collaborative forest restoration projects on National Forest System and other public lands in New Mexico, with an amendment in the nature of a substitute. (S. Rept. No. 106–176)

S. 1377, to amend the Central Utah Project Completion Act regarding the use of funds for water development for the Bonneville Unit, with an amendment in the nature of a substitute. (S. Rept. No. 106–177) **Pages S12100–01**

Labor/HHS/Education Appropriations: Senate resumed consideration of S. 1650, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, taking action on the following amendments proposed thereto: **Pages S12052–62, S12069–93**

Adopted:

By 54 yeas to 46 nays (Vote No. 313), Nickles Amendment No. 1889 (to Amendment No. 1851), to protect Social Security surpluses. **Pages S12052–62, S12069**

Coverdell Amendment No. 1837, to provide for a decrease and an increase in certain education funding. **Pages S12083–84**

Rejected:

Lautenberg Amendment No. 2267 (to Amendment No. 1851), to reject indiscriminate across-the-board cuts and protect social security surpluses by closing special interest tax loopholes and using other appropriate offsets. (By 54 yeas to 46 nays (Vote No. 314), Senate tabled the amendment.) **Pages S12071–79**

Kennedy Amendment No. 1819, to increase funding for title II of the Higher Education Act of 1965. (By 56 yeas to 43 nays (Vote No. 315), Senate tabled the amendment.) **Pages S12084–87, S12089**

Kennedy Amendment No. 2268, to protect funds available for education, including funds for Title I, Individuals With Disabilities Education Act and Pell Grants, from across-the-board reductions. (By 50 yeas to 49 nays (Vote No. 316), Senate tabled the amendment.) **Pages S12079–83, S12089**

Withdrawn:

Nickles Amendment No. 1851, to protect Social Security surpluses. **Pages S12052–62, S12079**

Reed Amendment No. 1866, to permit the expenditure of funds to complete certain reports concerning accidents that result in the death of minor employees engaged in farming operations.

Pages S12088–89

Pending:

Abraham (for Coverdell) Amendment No. 1828, to prohibit the use of funds for any program for the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug.

Pages S12090–93

A unanimous-consent agreement was reached providing for further consideration of the bill and the pending amendment. **Page S12146**

Foreign Operations Appropriations—Conference Report: By 51 yeas to 49 nays (Vote No. 312), Senate agreed to the conference report on H.R. 2606, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000. **Pages S12063–69**

Nominations Received: Senate received the following nominations:

Cornelius P. O'Leary, of Connecticut, to be a Member of the National Security Education Board for a term of four years.

Donald Stuart Hays, of Virginia, to be Representative of the United States of America to the United Nations for U.N. Management and Reform, with the rank of Ambassador.

Daniel J. French, of New York, to be United States Attorney for the Northern District of New York for the term of four years. **Page S12146**

Messages From the House: **Pages S12098–99**

Measures Referred: **Page S12099**

Measures Placed on Calendar: **Page S12099**

Communications: **Page S12099**

Petitions: **Pages S12099–S12100**

Statements on Introduced Bills: **Pages S12101–11**

Additional Cosponsors: **Pages S12111–12**

Amendments Submitted: **Pages S12112–13**

Notices of Hearings: **Page S12113**

Authority for Committees: **Pages S12113–14**

Additional Statements: **Pages S12114–15**

Text of H.R. 1000, as Previously Passed: **Pages S12115–46**

Record Votes: Five record votes were taken today. (Total—316) **Page S12069, S12078–79, S12089**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 6:33 p.m., until 9:30 a.m., on Thursday, October 7, 1999. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S12146.)

Committee Meetings

(Committees not listed did not meet)

AGRICULTURAL BIOTECHNOLOGY

Committee on Agriculture, Nutrition, and Forestry: Committee held hearings to review public policy related to agricultural biotechnology, focusing on domestic approval process, benefits of biotechnology and an emphasis on challenges facing farmers to segregation of product, receiving testimony from Ralph W. F. Hardy, on behalf of the National Agricultural Biotechnology Council, and Charles J. Arntzen, both of Boyce Thompson Institute for Plant Research, Inc., Ithaca, New York; Roger N. Beachy, Donald Danforth Plant Science Center, St. Louis, Missouri; Dean DellaPenna, University of Nevada College of Agriculture/School of Medicine, Reno; Bob B. Buchanan, University of California Department of Plant and Microbial Biology, Berkeley; Ray A. Bressan, Purdue University Department of Horticulture and Landscape Architecture, West Lafayette, Indiana; Brian A. Larkins, University of Arizona Department of Plant Sciences, Tucson; John B. Ohlrogge, Michigan State University Department of Botany and Plant Pathology, East Lansing; and Neil E. Harl, Iowa State University Department of Economics, Ames.

Hearings continue tomorrow.

COMPREHENSIVE TEST BAN TREATY

Committee on Armed Services: Committee held hearings on the national security implications of the Comprehensive Test Ban Treaty (Treaty Doc. 105–28), receiving testimony from William S. Cohen, Secretary of Defense; Gen. Harry H. Shelton, USA, Chairman, Joint Chiefs of Staff; James R. Schlesinger, former Secretary of Defense and former Secretary of Energy; and Gen. John M. Shalikashvili, USA (Ret.), former Chairman, Joint Chiefs of Staff.

Hearings continue tomorrow.

CRUISE SHIP TOURISM DEVELOPMENT

Committee on Commerce, Science, and Transportation: Committee concluded hearings on S. 1510, to revise the laws of the United States appertaining to United States cruise vessels, after receiving testimony from Senator Murkowski; Cynthia A. Colenda, International Council of Cruise Lines, and Lawrence H. O'Toole, Marine Engineers' Beneficial Association, both of Washington, D.C.; Al Wallack, Voyager Holdings, Inc., Brooklyn, New York; Edmund B. Welch, Passenger Vessel Association, and Allen Walker, Shipbuilders Council of America, both of

Arlington, Virginia; and Veronica Sanchez, Cruising America Coalition, San Francisco, California.

NOMINATIONS

Committee on Environment and Public Works: Committee concluded hearings on the nominations of Glenn L. McCullough, Jr., of Mississippi, and Skila Harris, of Kentucky, each to be a Member of the Board of Directors of the Tennessee Valley Authority, and Gerald V. Poje, of Virginia, to be a Member of the Chemical Safety and Hazard Investigation Board, after the nominees testified and answered questions in their own behalf. Mr. McCullough was introduced by Senators Cochran and Lott, and Representatives Wicker and Pickering, and Ms. Harris was introduced by Senator Thompson.

TENNESSEE VALLEY AUTHORITY

Committee on Environment and Public Works: Committee concluded hearing on the role of the Tennessee Valley Authority in a changing electric power industry, and S. 1323, to amend the Federal Power Act to ensure that certain Federal power customers are provided protection by the Federal Energy Regulatory Commission, after receiving testimony from Mark Medford, Executive Vice President, Customer Service and Marketing, Tennessee Valley Authority; Don Fuller, Paducah Power System, Paducah, Kentucky; Robert M. Hewett, Kentucky Utilities Company, Lexington, on behalf of the TVA Watch; and Richard Munson, Northeast-Midwest Institute, Washington, D.C.

PEACE AND ANTI-DRUG EFFORTS IN COLOMBIA

Committee on Foreign Relations: Committee held hearings to examine United States support for the peace process and anti-drug efforts in Colombia, receiving testimony from Senators Coverdell and DeWine; Barry R. McCaffrey, Director, Office of National Drug Control Policy; and Thomas R. Pickering, Under Secretary of State for Political Affairs.

Hearings recessed subject to call.

NATO AIR CAMPAIGN IN YUGOSLAVIA

Committee on Foreign Relations: Committee continued hearings to examine the United States policy regarding Kosovo, focusing on the conduct of the NATO air campaign in the war against Yugoslavia, receiving testimony from Zbibniew Brzezinski, Center for Strategic and International Studies, William H. Taft IV, Fried, Frank, Harris, Shriver and Jacobson, former U.S. Ambassador to NATO, and Eliot Cohen, Johns Hopkins University School for Advanced International Studies, all of Washington, D.C.

Hearings recessed subject to call.

COLLEGE FINANCIAL AID FRAUD

Committee on the Judiciary: Committee concluded hearings on S. 1455, to enhance protections against fraud in the offering of financial assistance for college education, after receiving testimony from Sheila F. Anthony, Commissioner, Federal Trade Commission; Susan O'Flaherty, Western Michigan University, Kalamazoo; Mark Kantrowitz, FinAid/eduPass, Pittsburgh, Pennsylvania; and Sanjeev Bery, U.S. Public Interest Research Group, Washington, D.C.

COMPUTER INFRASTRUCTURE PROTECTION

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information held hearings to examine the protection efforts being made against foreign-based threats to United States critical computer infrastructure, receiving testimony from Jack L. Brock, Jr., Director, Governmentwide and Defense Information Systems, Accounting and Information Management Division, General Accounting Office; John S. Tritak, Critical Infrastructure Assurance Office, and Michael A. Vatis, National Infrastructure Protection Center, both of Washington, D.C.

Hearings recessed subject to call.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 7 public bills, H.R. 3028–3034, and 1 resolution, H. Con. Res. 193, were introduced. **Page H9515**

Reports Filed: Reports were filed today as follows:

H.R. 1788, to deny Federal public benefits to individuals who participated in Nazi persecution, amended (H. Rept. 106–321, Pt. 2). **Page H9515**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Michael A. Nagy of York, Pennsylvania. Page H9413

Journal Vote: Agreed to the Speaker's approval of the Journal of Tuesday, October 5, by a yea and nay vote of 340 yeas to 68 nays with one voting "present", Roll No. 481. Pages H9413, H9417–18

Motion to Adjourn: The House rejected the Frost motion to adjourn by a yea and nay vote of 3 yeas and 423 nays, Roll No. 482. Pages H9428–29

Quality Care for the Uninsured Act: The House passed H.R. 2990, to amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts by a yea and nay vote of 227 yeas to 205 nays, Roll No. 485. Pages H9431–74

Rejected the Rangel motion to recommit the bill to the Committee on Ways and Means with instructions to report it back to the House with an amendment in the nature of a substitute that makes the bill consistent with the President's demand to preserve the projected surpluses until there is action on Medicare and Social Security solvency by a recorded vote of 211 ayes to 220 noes, Roll No. 484. Pages H9471–73

H. Res. 323, the rule that is providing for consideration of both H.R. 2990 and H.R. 2723 was agreed to by a yea and nay vote of 221 yeas to 209 nays, Roll No. 483. Pages H9418–31

Bipartisan Consensus Managed Care Improvement Act: The House completed general debate on H.R. 2723, to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage. The House will consider amendments on October 7. Pages H9474–H9502

American Folklife Center: The Chair announced the Speaker's appointment of Ms. Kay Kaufman Shelemay of Massachusetts and Mr. John Penn Fix, III of Washington to the Board of Trustees of the American Folklife Center in the Library of Congress. Pages H9502–03

Senate Messages: Message received from the Senate appears on page H9474.

Corrections Calendar: The Speaker filed with the Clerk a notice requesting that H.R. 576, to amend title 4, United States Code, to add the Martin Luther King, Jr. holiday to the list of days on which the flag should especially be displayed be placed upon the Corrections Calendar. Page H9515

Quorum Calls—Votes: Four yea and nay votes and one recorded vote developed during the proceedings of the House today and appear on pages H9417–18, H9428–29, H9430–31, H9473, and H9473–74. There were no quorum calls.

Adjournment: The House met at 10:00 a.m. and adjourned at 10:38 p.m.

Committee Meetings

USDA'S RUSSIAN FOOD AID PROGRAM

Committee on Agriculture: Held a hearing to review the USDA's Russian Food Aid Program. Testimony was heard from Representative Kaptur; the following officials of the USDA: Dan Glickman, Secretary; and Roger C. Viadero, Inspector General; and public witnesses.

ELECTRICITY COMPETITION AND RELIABILITY ACT

Committee on Commerce: Subcommittee on Energy and Power concluded hearings on H.R. 2944, Electricity Competition and Reliability Act of 1999. Testimony was heard from public witnesses.

SUBPOENA—ONGOING INVESTIGATIONS; BLOOD SAFETY AND AVAILABILITY

Committee on Commerce: Subcommittee on Oversight and Investigations, by a roll call vote of 10 yeas to 0 nays, authorized the issuance of a subpoena duces tecum to the Honorable Madeleine K. Albright, Secretary of State, to compel the production of the Circular 175 relating to the Committee's ongoing review of international agreements addressing the transboundary movement of air pollutants.

The Subcommittee also continued hearings on Blood Safety and Availability. Testimony was heard from the following officials of the Department of Health and Human Services: David Satcher, Assistant Secretary, Health and Surgeon General; and Kathryn C. Zoon, Director, Center for Biologics Evaluation and Research.

SEND MORE DOLLARS TO THE CLASSROOM

Committee on Education and the Workforce: Continued markup of H.R. 2, to send more dollars to the classroom.

Will continue tomorrow.

STATE OF THE STATES: WILL Y2K DISRUPT ESSENTIAL SERVICES?

Committee on Government Reform: Subcommittee on Government Management, Information, and Technology and the Subcommittee on Technology of the Committee on Science held a joint hearing on State of the States: Will Y2K Disrupt Essential Services? Testimony was heard from Joel Willemssen, Director, Civil Agencies Information Systems, GAO; John Spotila, Administrator, Office of Information and Regulatory Affairs, OMB; John Callahan, Chief Information Officer, Department of Health and Human Services; Shirley Watkins, Under Secretary, Food, Nutrition, and Consumer Services, USDA; Edward Hugler, Deputy Assistant Secretary, Information Technology and the Acting Deputy Assistant Secretary, Administration and Management, Department of Labor; and a public witness.

IS CO_2 A POLLUTANT—DOES EPA HAVE POWER TO REGULATE

Committee on Government Reform: Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs and the Subcommittee on Energy and Environment of the Committee on Science held a joint hearing on Is CO_2 a Pollutant and Does EPA Have the Power to Regulate It? Testimony was heard from Gary S. Guzy, General Counsel, EPA; and public witnesses.

U.S. POLICY TOWARD RUSSIA

Committee on International Relations: Held a hearing on U.S. Policy Toward Russia, Part I: Warnings and Dissent. Testimony was heard from David Swartz, former Ambassador to Belarus; and public witnesses.

Hearings continue tomorrow.

INTERNATIONAL RELIGIOUS FREEDOM—STATE DEPARTMENT REPORT

Committee on International Relations: Subcommittee on International Operations and Human Rights held a hearing on the First Annual State Department Report on International Religious Freedom. Testimony was heard from Robert Seiple, Ambassador-at-Large, International Religious Freedom, Department of State; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: S. 278, to direct the Secretary of the Interior to convey certain lands to the County of Rio Arriba, New Mexico; S. 382, Minuteman Missile National Historic Site Establishment Act of 1999; H.R. 2496, amended, to reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1999; H.R. 2669, amended, Coastal Community Conservation Act of 1999; H.R. 2821, to amend the North American Wetlands Conservation Act to provide for appointment of 2 additional members of the North American Wetlands Conservation Council; H.R. 2970, Rongelap Resettlement Act of 1999; and H.R. 3002, Resources Reports Restoration Act.

BINATIONAL GREAT LAKES—SEAWAY ENHANCEMENT ACT

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment held a hearing on H.R. 2332, Binational Great Lakes-Seaway Enhancement Act of 1999. Testimony was heard from Albert Jacquez, Administrator, St. Lawrence Seaway Development Corporation, Department of Transportation; Joe Comuzzi, Member of Parliament, Canada; and public witnesses.

COMMITTEE MEETINGS FOR THURSDAY, OCTOBER 7, 1999

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Agriculture, Nutrition, and Forestry: to hold hearings to review public policy related to biotechnology, focusing on domestic approval process, benefits of biotechnology and an emphasis on challenges facing farmers to segregation of product, 9 a.m., SR–328A.

Committee on Armed Services: to hold hearings on the ability of the Stockpile Stewardship Program to adequately verify the safety and reliability of the United States nuclear deterrent under a Comprehensive Test Ban Treaty; to be followed by a closed hearing (SR–222), 9:30 a.m., SD–106.

Committee on Energy and Natural Resources: Subcommittee on Energy Research, Development, Production and Regulation, to hold hearings on S. 1183, to direct the Secretary of Energy to convey to the city of Bartlesville, Oklahoma, the former site of the NIPER facility of the Department of Energy; and S. 397, to authorize the Secretary of Energy to establish a multiagency program in support of the Materials Corridor Partnership Initiative to promote energy efficient, environmentally sound economic development along the border with Mexico through the research, development, and use of new materials, 2:30 p.m., SD–366.

Committee on Environment and Public Works: to hold hearings on S. 188, to amend the Federal Water Pollution Control Act to authorize the use of State revolving loan funds for construction of water conservation and quality improvements; S. 968, to authorize the Administrator of the Environmental Protection Agency to make grants to State agencies with responsibility for water source development, for the purposes of maximizing the available water supply and protecting the environment through the development of alternative water sources; and S. 914, to amend the Federal Water Pollution Control Act to require that discharges from combined storm and sanitary sewers conform to the Combined Sewer Overflow Control

Policy of the Environmental Protection Agency, 10 a.m., SD–406.

Committee on Finance: Subcommittee on International Trade, to hold hearings on the United States agricultural negotiating objectives for the Seattle World Trade Organization Ministerial Conference, 10 a.m., SD–215.

Committee on Foreign Relations: to hold hearings on comprehensive Nuclear Test-Ban Treaty, opened for signature and signed by the United States at New York on September 24, 1996. Treaty includes two Annexes, a Protocol, and two Annexes to the Protocol (Treaty Doc. 105–28), 10:30 a.m., SD–419.

Full Committee, to continue hearings on comprehensive Nuclear Test-Ban Treaty, opened for signature and signed by the United States at New York on September 24, 1996. Treaty includes two Annexes, a Protocol, and two Annexes to the Protocol (Treaty Doc. 105–28), 2 p.m., SD–419.

Committee on Governmental Affairs: Subcommittee on International Security, Proliferation and Federal Services, to hold hearings to examine guidelines for the relocation, closing, consolidation or construction of Post Offices, 2 p.m., SD–608.

Committee on the Judiciary: business meeting to consider the nomination of Ronald A. Guzman, of Illinois, to be United States District Judge for the Northern District of Illinois; the nomination of William Joseph Haynes, Jr., of Tennessee, to be United States District Judge for the Middle District of Tennessee vice Thomas A. Higgins, retired; the nomination of Barbara M. Lynn, of Texas, to be United States District Judge for the Northern District of Texas; the nomination of Diana E. Murphy, of Minnesota, to be a Member of the United States Sentencing Commission; the nomination of Ruben Castillo, of Illinois, to be a Member of the United States Sentencing Commission; the nomination of Sterling R. Johnson, Jr., of New York, to be a Member of the United States Sentencing Commission; the nomination of Joe Kendall, of Texas, to be a Member of the United States Sentencing Commission; the nomination of Michael O'Neill, of Maryland, to be a Member of the United States Sentencing Commission; the nomination of William Sessions, III, of Vermont, to be a Member of the United States Sentencing Commission; and the nomination of John R. Steer, of Virginia, to be a Member of the United States Sentencing Commission for the remainder of the term expiring October 31, 1999, 10 a.m., SD–226.

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Committee on Armed Services, Subcommittee on Military Readiness, hearing on spare and repair parts shortages, 9 a.m., 2212 Rayburn.

Subcommittee on Research and Development, hearing on electromagnetic pulse (EMP) threats to U.S. military and civilian infrastructure, 10:30 a.m., 2118 Rayburn.

Committee on Commerce, Subcommittee on Finance and Hazardous Materials, hearing on PUHCA Repeal: Is The Time Now? 10 a.m., 2123 Rayburn.

Committee on Education and the Workforce, to continue markup of H.R. 2, to send more dollars to the classroom, and other pending business, 9 a.m.; and to hold a hearing on Examining the Impact of Minimum Wage on Welfare to Work, 3 p.m., 2175 Rayburn.

Committee on International Relations, to continue hearings on U.S. Policy Toward Russia, Part II: Corruption in the Russian Government, 10 a.m., 2172 Rayburn.

Committee on the Judiciary. Subcommittee on Courts and Intellectual Property, to mark up H.R. 1714, Electronic Signatures in Global and National Commerce Act, 10 a.m., 2226 Rayburn.

Subcommittee on Crime, to mark up the following bills: H.R. 1887, to amend title 18, United States Code, to punish the depiction of animal cruelty; and H.R. 1869, Stalking Prevention and Victim Protection Act of 1999, 2 p.m., 2237 Rayburn.

Committee on Resources, Subcommittee on Water and Power, to hold a hearing on the following: H.R. 2994, Sugar Pine Dam and Reservoir Conveyance Act; H.R. 1696, to direct the Secretary of the Interior to convey the Griffith Project to the Southern Nevada Water Authority; H.R. 2674, providing for conveyance of the Palmetto Bend project to the State of Texas; H.R. 2984, Middle Loup Conveyance Act; H.R. 2974, Lower Yellowstone Irrigation Project Facilities Conveyance Act of 1999; H.R. 2889, to amend the Central Utah Project Completion Act to provide for acquisition of water and water rights for Central Utah Project purposes, completion of Central Utah project facilities, and implementation of water conservation measures; and H.R. 1235, to authorize the Secretary of the Interior to enter into contracts with the Solano County Water Agency, California, to use Solano Project facilities for impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes, 10 a.m., 1334 Longworth.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, hearing on Cruise Ship Safety, 10 a.m., 2253 Rayburn.

Subcommittee on Ground Transportation, hearing on the Effect of the Fiscal Year 2000 Department of Transportation Appropriations Act on Motor Carrier Safety Enforcement, 10 a.m., 2167 Rayburn.

Subcommittee on Oversight, Investigations, and Emergency Management, hearing on GSA's Federal Building Security Program, 2 p.m., 2167 Rayburn.

Next Meeting of the SENATE

9:30 a.m., Thursday, October 7

Senate Chamber

Program for Thursday: Senate will continue consideration of S. 1650, Labor/HHS/Education Appropriations. Also, Senate will consider any conference reports when available.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, October 7

House Chamber

Program for Thursday: Complete consideration of H.R. 2723, Bipartisan Consensus Managed Care Improvement Act of 1999 (structured rule).

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